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PROMOTION AND PROTECTION OF HUMAN RIGHTS

HUMAN RIGHTS DEFENDERS

**Report submitted by Ms. Hina Jilani, Special Representative of the
Secretary-General on human rights defenders in accordance with
Commission resolution 2000/61**

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Executive summary

This is the first report presented by the Special Representative of the Secretary-General on human rights defenders, Ms. Hina Jilani. It is submitted pursuant to Commission resolution 2000/61. The report contains the initial considerations on how the Special Representative perceives her mandate, the methods of work and her activities and a brief summary of urgent appeals and communications to and from Governments followed by concluding remarks. With regard to country situations, the Special Representative sent seven urgent appeals and four communications between the time she initiated her work at the end of September 2000 to the beginning of December 2000. Amongst those, five were sent jointly with other thematic mechanisms, in particular the Special Rapporteur on torture, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on violence against women.

The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (hereinafter "the Declaration") will form the basis in determining and developing the scope of the mandate. Articles 3 and 4 of the Declaration define the juridical framework for the implementation of the mandate. The Special Representative will carry out her mandate in a spirit of cooperation and will collaborate with existing special procedures, United Nations treaty bodies, United Nations agencies and other organizations, regional human rights mechanisms and non-governmental organizations.

The methods of work adopted by the Special Representative are largely based on those applied by other thematic mechanisms, with due regard for the specificity of her mandate. Communications will consist of urgent appeals and letters of allegation transmitted to Governments; in cases of particular gravity she may also issue a press statement, which would follow a communication addressed to the Government(s). She will undertake country visits and field missions, drawing upon the existing protocols and criteria insofar as they apply to her mandate. The Special Representative will make herself available on the widest possible basis to the greatest extent of her abilities and will establish direct contact with Governments, relevant authorities and institutions as well as with the above-mentioned organizations.

In addition to the seven urgent appeals and four communications to Governments, the Special Representative also sent a note verbale to permanent missions in Geneva and non-governmental and other organizations asking them to provide any information relevant to her mandate. Furthermore, she has held consultations with the Secretary-General, the High Commissioner for Human Rights and her Office as well as with Governments and NGOs.

The Special Representative concludes her report with reference to issues of concern regarding human rights defenders. The recurrent problem in the protection of human rights defenders remains the lack or inefficient implementation of the normative frameworks. There have already been a considerable number of communications which allege serious human rights

violations targeting human rights defenders, from which no region is free. The risks faced by human rights defenders are serious, as evidenced by the number of defenders who were the subject of urgent appeals and communications from other thematic mandates over the last two years. The measure of the success of the mandate will be the security that this mechanism provides for those acting for the promotion and protection of human rights. In this regard, the Special Representative will recommend effective strategies to better protect human rights defenders and present her recommendations to the Commission on Human Rights and the General Assembly in her subsequent reports.

Introduction

1. By its decision 1985/112 of 14 March 1985, the Commission on Human Rights established an open-ended working group to draft an instrument on human rights defenders. The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (hereinafter "the Declaration") was adopted, by consensus, by the General Assembly in its resolution 53/144 on 9 December 1998, following 13 years of a negotiation process involving Member States and non-governmental organizations (NGOs).
2. The consensus of the Member States in adopting the Declaration represented a clear commitment to acknowledge, promote and protect the work and rights of human rights defenders around the world. The recognition by the international community of its responsibilities in this area was rightly considered by many as a turning point in improving the protection of human rights defenders. By subscribing to the principles that the Declaration underpins, States acknowledged the important role of international cooperation in protecting individuals, groups and associations in their work which contributes to the effective elimination of all violations of human rights and fundamental freedoms.
3. Given the consensus of the international community in recognizing the legitimacy of the important work of human rights defenders, the continuous reporting of violations of the rights of human rights defenders in many parts of the world was considered to be a matter of serious concern. Several United Nations organs have in the past raised the issue of human rights defenders around the world. Reference should be made inter alia to General Assembly resolution 54/170 in which the Assembly noted with deep concern that, in many countries, persons and organizations engaging in promoting and defending human rights were facing threats, harassment and insecurity as a result of those activities. The Subcommission on the Promotion and Protection of Human Rights also expressed concern over the situation of human rights defenders around the world. In resolutions 1998/3 and 1999/3, the Subcommission condemned the murders of 17 named human rights defenders and requested the High Commissioner for Human Rights to undertake inquiries about the security of 18 other named individual human rights defenders. In a report to the Subcommission (E/CN.4/Sub.2/2000/5), the High Commissioner provided information on the individuals concerned.
4. In 1999, the Commission on Human Rights and the General Assembly encouraged Member States to implement the Declaration and requested the Secretary-General to report on the extent to which the Declaration was being implemented¹. Interesting discussions followed arguing in favour or against the establishment of a specific mandate.
5. To promote and achieve effective implementation of the Declaration, the need for establishing a special mechanism for reporting on and promoting the situation of human rights defenders as well as on possible means to enhance their protection was felt most pertinent by many delegations. The mechanism was considered as the logical next step by the international community in giving effect to the Declaration aiming to protect the existence and activities of human rights defenders; it would in turn reinforce concerted efforts, at both national and international levels, in promoting and protecting human rights.

6. Many Governments agreed that the new mechanism, by giving effect to the Declaration, would enhance national and international awareness of problems involving violence and oppression against human rights advocates and activities. This would also draw Governments' attention to their obligations to promote and protect human rights, in particular those of human rights defenders. Additionally, a new mechanism to promote and to implement the Declaration was much sought after and welcomed by non-governmental organizations and members of both national and international civil societies. They considered the mechanism an important and necessary step towards greater recognition and protection of the work of human rights defenders worldwide.

7. There were, however, concerns expressed by other delegations over the fact that a new mechanism might duplicate the work of existing mechanisms and be a source of confusion, since the latter already dealt with issues relating to the protection of human rights defenders. Additionally, it was stated that a new mechanism might draw on already limited resources available to existing mechanisms and might thus divert much needed resources from them.

8. After extensive discussion, the Commission on Human Rights, by its resolution 2000/61, requested the Secretary-General to appoint, for a period of three years, a special representative who shall report on the situation of human rights defenders in all parts of the world and on possible means to enhance their protection in full compliance with the Declaration. This request was endorsed by the Economic and Social Council in its decision 2000/220.

9. Ms. Hina Jilani (Pakistan) was appointed Special Representative by the Secretary-General. In the present report to the Commission, the Special Representative will share her initial considerations as to how she intends to conduct her mandate, how she perceives her mandate and the activities foreseen under this mandate, and make initial comments on issues of particular relevance to the carrying out of her mandate. Attaching particular importance to the arguments put forward in the discussion of the new mandate, it is the intention of the Special Representative to establish cooperation with all relevant United Nations mechanisms and initiate fruitful and comprehensive cooperation with States and non-State actors.

I. THE MANDATE

10. The mandate of the Special Representative of the Secretary-General on human rights defenders is contained in Commission resolution 2000/61. In paragraph 3 of this resolution, the Special Representative is requested to report on the situation of human rights defenders in all parts of the world and on possible means to enhance their protection in full compliance with the Declaration. The main activities of the Special Representative shall be:

(a) To seek, receive examine and respond to information on the situation and the rights of anyone, acting individually or in association with others, to promote and protect human rights and fundamental freedoms;

(b) To establish cooperation and conduct dialogue with Governments and other interested actors on the promotion and effective implementation of the Declaration;

(c) To recommend effective strategies better to protect human rights defenders and follow up on these recommendations.

11. The Special Representative is also requested to submit annual reports on her activities to the Commission on Human Rights and to the General Assembly and to make any suggestions and recommendations enabling her better to carry out her tasks and activities (para. 6).

12. In the same resolution, the Commission urged all Governments to cooperate with and assist the Special Representative in the performance of her tasks and to furnish all information in the fulfilment of her mandate upon request (para. 4).

Scope of the mandate

13. The Declaration forms the foundation for determining and developing the scope of the mandate, and for any action or initiatives undertaken by the Special Representative. In the application of the mandate to human rights defenders, the Special Representative will draw, in particular, upon article 1² read with the fourth paragraph of the preamble to the Declaration,³ and will be guided by the Charter of the United Nations and the Universal Declaration of Human Rights. The United Nations international human rights instruments will constitute a more precise legal background against which the Special Representative will consider her mandate. In particular, the International Covenant on Civil and Political Rights (particularly its articles 2 (3), 12, 17, 19, 21, 22), the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (particularly its article 13), the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, and the Freedom of Association and Protection of the Right to Organize Convention, (No. 87) of the International Labour Organization.

14. Additionally, the following conventions or declarations will provide a relevant framework for the implementation of the Declaration: the Vienna Declaration and Programme of Action, the Beijing Declaration and Platform for Action, Women 2000: Gender Equality, Development and Peace for the Twenty-first Century (known as "Beijing plus 5"), the Declaration on the Elimination of Violence against Women, the Body of Principles for the Protection of All Persons under Any form of Detention or Imprisonment, the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Johannesburg Principles on National Security, Freedom of Expression and Access to Information, the Basic Principles on the Role of Lawyers, the Basic Principles on the Independence of the Judiciary, the Declaration on the Protection of All Persons from Enforced Disappearance, the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. The Special Representative wishes to point out that she considers all activities in relation to human rights and fundamental freedoms recognized in international human rights instruments and commitments, including the Declaration, as activities for the promotion, protection and realization of human rights. She is also conscious of the fact that certain provisions of the aforementioned

international instruments are of particular relevance to the protection and promotion of the rights and fundamental freedoms of human rights defenders considered either as individuals or as groups and/or organs of society. This is of specific importance, since the Declaration addresses the protection and promotion of human rights defenders according to this particular distinction. She will encourage, wherever and whenever possible, cooperation with relevant bodies entrusted with monitoring the implementation of the said instruments and build on their experience.

15. It is, however, essential to bear in mind that, prior to Commission resolution 2000/61, no particular mandate had been tailored to focus on specific rights or freedoms for human rights defenders. A number of the thematic mandates established by the Commission have, within their mandate, responded to particular forms of violations against human rights defenders. A summary of such recent information is provided in section IV below. The Special Representative takes note with appreciation of such action and looks forward to developing a mutually supportive and cooperative framework for joint action.

16. Nevertheless, it should be pointed out that initiatives taken by different thematic mechanisms had to remain within the strict limits of the juridical framework within which the special procedure concerned was operating. This afforded less scope for a comprehensive approach to the implementation of rights recognized in the Declaration. Under the mandate of the new mechanism, those engaged in the promotion and protection of human rights are the focus of protection. This allows the Special Representative not only to respond to the different forms of violations to which defenders are subjected, but also take into consideration situations and conditions that threaten or impede the work or security of defenders.

17. The Special Representative considers that the extent of her responsibility will have to be considered with this distinction in mind and in the light of the nature and extent of the alleged human rights situation under reference. The following considerations would be relevant for determining the role of the Special Representative:

(a) When violations of rights of human rights defenders, as individuals or groups of individuals, occur as a consequence of events of a wider dimension (for instance an internal conflict), it is legitimate to consider that other thematic or geographic procedures should have a leading role to play. In such cases, the Special Representative will, in close coordination with them, deal with the consequential aspects of the said violations or situation for the implementation of the Declaration and the protection of human rights defenders;

(b) When a situation occurs where rights of human rights defenders, as individuals or groups of individuals, are specifically targeted, it is legitimate to consider that the Special Representative will have to play the leading role. Obviously, such a situation may take the form of specific violations of human rights which are the subject of other more specific thematic or geographic mandates of the Commission. Accordingly, the concerned procedure would have to focus on the consequential aspect of such a situation in close concurrence and cooperation with the Special Representative.

The Special Representative intends to discuss this matter further with other mandate-holders at the next annual meeting of special rapporteurs/representatives, independent experts and chairpersons of working groups of the Commission on Human Rights.

18. For the effective implementation of her mandate, the Special Representative deems it necessary to include in the scope of inquiry conditions in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons are able to enjoy these rights in practice (article 2 of the Declaration).

19. Article 9 of the Declaration⁴ affirming the basic right of everyone to benefit from an effective remedy in the case of any violation of human rights, and to be protected in the event of such violation must be read in the context of the applicable international human rights standards. Importantly, article 9 (3) of the Declaration is non-exhaustive, using the term "inter alia", and applies to everyone, "individually" and "in association with others", meaning that "effective remedies" in the context of the Declaration must be read broadly.

20. Furthermore, the concept of effective remedies, as with all guarantees referred to in the Declaration, cannot be interpreted in any way that restricts or impairs the applicability of the relevant international human rights standards.⁵

21. The mandate to seek information allows the Special Representative to request invitation from Governments to conduct field missions to countries where the situation so demands, based on the information received by her. The Special Representative will attach particular interest in developing a series of practical guiding and non-binding criteria that would allow her to determine the situations in which a field mission may be warranted. Among those issues that she will have to take into account are:

- (a) The priority attention which should be given to cases where the alleged perilous situation can be addressed more effectively under her mandate;
- (b) The rights or freedoms of human rights defenders which are not the subject of any other instruments or mandates (e.g. freedom of association, freedom of movement, etc.);
- (c) Cases where the authorities have expressed some *prima facie* interest in developing constructive working relations with her mandate; and
- (d) The need to maximize the use of resources and time.

22. "Other interested actors" in paragraph 3 (b) of resolution 2000/61 may be interpreted to include individuals, groups and agencies allegedly involved in the violation of human rights, or those whose cooperation the Special Representative may seek for the protection of human rights defenders, or for the improvement of conditions that threaten the security of defenders.

23. Initiatives, actions and strategies for the prevention of conditions resulting in harm to defenders is an important aspect of this mandate. In this respect the scope of activities under this mandate extends to seeking advice and information on good practices and recommending technical assistance as a measure for improvement of the situation of human rights affecting the work of defenders. This will require close cooperation with the team at the Office of the High Commissioner for Human Rights (OHCHR) that deals with technical cooperation and the OHCHR field presences with a view to formulating such projects as might be of relevance in any given situation.

24. States have the primary responsibility and duty to protect, promote and implement human rights. Nevertheless, groups and individuals, whether armed or otherwise, who violate or threaten the rights recognized by the Declaration also have an obligation to respect them. This respect can be ensured by the adoption of the necessary legal policies and administrative measures for the effective protection of human rights defenders by States within whose jurisdiction these groups operate. The Special Representative therefore regards communications and dialogue with Governments as an important aspect of the mandate, regardless of the source of the violation or threat of violation.

Juridical framework

25. Articles 3 and 4 define the juridical framework for the implementation of the Declaration. Article 3 provides that:

“Domestic law consistent with the Charter of the United Nations and other international obligations of the State in the field of human rights and fundamental freedoms is the juridical framework within which human rights and fundamental freedoms should be implemented and enjoyed and within which all activities referred to in the present Declaration for the promotion, protection and effective realization of those rights and freedoms should be conducted.”

Article 4 provides that:

“Nothing in the present Declaration shall be construed as impairing or contradicting the purposes and principles of the Charter of the United Nations or as restricting or derogating from the provisions of the Universal Declaration of Human Rights, the International Covenants on Human Rights and other international instruments and commitments applicable in this field.”

26. Articles 3 and 4 must be read together with the Declaration’s preamble which reaffirms and reiterates the importance of the Charter of the United Nations as well as that of international human rights law. It also emphasizes (in the seventh paragraph of the preamble) that “the prime responsibility and duty to promote and protect human rights and fundamental freedoms lie with the State” (see also article 2 of the Declaration), but that “the absence of international peace and security does not excuse non-compliance” (fifth paragraph of the preamble).

27. Consequently, articles 3 and 4, read in the light of the Declaration’s preamble, require the Special Representative to place primary emphasis on domestic law, but in a way that does not restrict or derogate from the application of pertinent international human rights standards. The Special Representative shall therefore take full account of the domestic legal context while reaffirming the applicability and integrity of international human rights norms. This implies further that the Special Representative’s mandate is intended to comprehend fully the applicability of international human rights norms to the domestic legal context, not only in seeking to identify shortcomings and problem areas, but also in recommending constructive solutions at the domestic, regional and international levels.

28. In this context, it is of particular importance to note that, in its consideration of reports submitted by States parties under article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the United Nations Committee against Torture considers whether the pertinent domestic law of the country under examination is consistent with the Declaration.

29. Accordingly, the Special Representative takes note of article 3 of the Declaration and, in her assessment and evaluation of a situation, will give due regard to domestic law that is consistent with the Charter of the United Nations and other international obligations of the State in the field of human rights. She is also fully conscious of article 4 of the Declaration and will be guided in her initiatives by provisions of human rights instruments and the standards laid down therein.

Cooperation with existing special procedures

30. As recalled earlier, prior to the establishment of this new mandate, there was no specific international mechanism providing effective protection to human rights defenders whose life, physical integrity, safety and freedoms might have been attacked owing to their work for the promotion and protection of human rights. United Nations bodies and the special procedures and working groups of the Commission on Human Rights had therefore taken a stand regarding instances of specific violations of the rights of human rights defenders. In the light of the foregoing, the Special Representative intends to build on these experiences and to discuss with other existing special procedures possible forms of cooperation.

31. At the 1999 meeting of special rapporteurs/representatives, independent experts and chairpersons of working groups of the special procedures of the Commission on Human Rights, it was noted that while all the existing mechanisms were committed to cooperating among themselves on the protection of human rights defenders, the nature of the problem was not such that it could be covered satisfactorily by them alone in the discharge of their specific mandates. Accordingly, the new situation that has emerged from the establishment of this mandate and the guidelines proposed above will need to be discussed at the next meeting of the special procedures in 2001. The Special Representative is pleased to note that this will be done under a separate agenda item.

32. Indeed, it is her strong view that the creation of the new mandate does not mean that the other special procedures should henceforth refrain from dealing with issues involving human rights defenders. Several special procedures, as indicated earlier, have devoted a section of their reports to this area, which is essential for presenting the different dimensions of the subject of their mandate. The Special Representative is sure that this will continue, and will substantiate the need for the initiatives she takes under her mandate.

Cooperation with United Nations treaty bodies

33. The Special Representative appreciates the fact that, in recent years, the United Nations treaty bodies, through their respective mechanisms, have repeatedly expressed concern about intimidation and harassment, in particular by government officials, of journalists and human rights activists, including members of human rights non-governmental organizations, who have

been subjected to prosecution, fines and imprisonment. Treaty bodies were, however, limited in their consideration of the situation of human rights defenders by their conventional obligation to deal only with the situation prevailing in States parties.⁶

Cooperation with the specialized agencies and other organizations

34. In carrying out her mandate, the Special Representative intends to explore the possibilities of collaboration with other United Nations agencies which, in their respective fields of competence, have established procedures in promoting and protecting the fundamental rights and freedoms of human rights defenders.

35. The Special Representative will pay particular attention to procedures developed within the specialized agencies which are of direct or indirect relevance to the protection and promotion of the rights set forth in the Declaration. In particular, the Special Representative will link with the International Labour Organization (ILO) in its efforts aiming at protecting labour rights, particularly the rights of trade unionists.⁷

36. The Special Representative will also endeavour to open avenues of cooperation with United Nations bodies and agencies such as the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Development Fund for Women (UNIFEM), the United Nations Children's Fund (UNICEF), the World Food Programme (WFP) and the World Health Organization (WHO) or other organizations such as the International Committee of the Red Cross (ICRC). Indeed, as protectors of refugees and humanitarian workers who, in some appropriate cases, are performing the roles of human rights defenders, these agencies will offer invaluable sources of information and opportunities for experience exchange. The Special Representative will also look forward to cooperating with the United Nations Development Programme (UNDP) and benefit from its assistance in carrying out her mandate.

Cooperation with regional human rights mechanisms

37. The Special Representative will seek to establish a working relationship with regional intergovernmental human rights mechanisms, including those under the Organization of American States, the Council of Europe, the Organization for Security and Cooperation in Europe (OSCE) and the Organization of African Unity, and to exchange information with their secretariats and experts on situations involving human rights defenders. This will allow her also to develop a regional approach to the problems encountered by human rights defenders and to recommend regional strategies. In particular, following the precedent of existing regional protection mechanisms or initiatives such as *medidas cautelares* within the Inter-American Commission on Human Rights or the creation of Passports for Freedom for Human Rights Defenders within the European Union, the Special Representative will seek the active cooperation of these bodies in order to devise regional strategies for enhancing the protection of human rights defenders and for better implementation of the Declaration, and intends to explore the possibilities of initiating other regional protection measures in compliance with her mandate.

Cooperation with NGOs

38. The Special Representative recognizes the importance of the work of human rights NGOs in the creation of this mandate and their support for establishing this mechanism. NGOs would be the major source of information in the work of the Special Representative. The legal and normative framework for the mandate can be best developed in consultation with NGOs, many of which have already established programmes and developed networks for the protection of human rights defenders. The Special Representative also hopes to establish links with human rights centres and institutes and to draw upon their expertise for developing the scope of the mandate.

II. METHODS OF WORK

39. In devising methods of work for the implementation of her mandate the Special Representative is aware that the protection of human rights defenders has multiple dimensions and would require varied actions to obtain the best results. The primary concern in the methodology would be to ensure wider accessibility, prompt response, and initiatives that are effective. Wide dissemination on the establishment of the mechanism would be important for accessibility of the mandate. In this regard, publicizing the Declaration as a part of human rights education should be considered.

40. The Special Representative understands the need to maintain the independence and credibility of the mandate. It would therefore be necessary to employ methods for verification of information through a network of sources. Many such networks already exist and are well respected for their integrity and reliability. The Special Representative will establish working methods for the most efficient discharge of her mandate. She also intends to explore how treaty bodies and other non-treaty mechanisms have regarded the Declaration in the execution of their mandates and to build upon methods devised by them for the implementation of the Declaration.

41. The mandate of the Special Representative implies a combined approach that considers the general situation of human rights defenders around the world as well as concrete incidents and individual cases. Therefore, the work of the Special Representative will involve both the study of phenomena related to human rights defenders and action on concrete incidents and cases.

42. The methods of work already adopted by the Special Representative are largely based on those applied by other thematic mechanisms, with due regard for the specificity of her mandate. In particular, she takes note of the methods of work used by the Special Rapporteur on extrajudicial, summary or arbitrary executions (see E/CN.4/1994/7, paras. 13-67) and the Special Rapporteur on torture (see E/CN.4/1997/7, annex).

43. The Special Representative decided to adopt the urgent appeal procedure when the cases involved are of particular gravity. An urgent appeal is made on the basis of information received by the Special Representative and expresses concern over a case or a situation involving human rights defenders and human rights organizations. When making a determination as to whether an urgent appeal should be sent, a certain number of factors will be taken into account, in particular whether the source of information is reliable and the information consistent. Corroborative or

supplementary information will also be sought from sources other than the alleged victims or their representatives. The urgent appeal, which is essentially preventive, is directly addressed to the Ministry for Foreign Affairs or other relevant department of the Government of the country concerned.

44. When a situation in a particular country is of particular concern and gravity, the Special Representative will issue a press statement to inform the international community of the situation or case. The press statement will follow a communication addressed to the Government(s), and will be based on issues taken up with the Government(s) in that communication.

45. The Special Representative also decided to transmit to Governments letters, on the basis of credible and reliable information received, alleging violations of the rights and fundamental freedoms of human rights defenders. Cases of particular incidents/situations regarding freedom of association in general will also be transmitted.

46. The communications - urgent appeals and allegations - shall be transmitted to Governments, which shall be asked to reply after having carried out the appropriate inquiries so as to provide the Special Representative with the fullest possible information.

47. The dialogue established with Governments by the Special Representative and the transmission of allegations concerning their countries in no way implies any kind of accusation or value judgement on the part of the Special Representative. Communications with Governments are intended to draw their attention to incidents, situations and conditions that require action or restraint on the part of the State for the protection of human rights defenders. The Special Representative is eager to pursue a constructive approach for the improvement of the situation of human rights defenders together with the Government(s) concerned.

48. Country visits and field missions, which imply the consent of the Government concerned, will be an integral part of the Special Representative's work. She will draw upon the already existing protocols and criteria for such visits and missions insofar as they apply to her mandate, and expects to develop additional criteria where necessary for better implementation of her mandate.

49. The Special Representative considers the follow-up of cases and country visits to be an important aspect of her mandate. In this regard, where responses received from Governments to the communications sent are considered unsatisfactory by the Special Representative, she will seek additional information from the source/victim by transmitting to them the content of the Government's response. The cases/situations will continue to be followed by the Special Representative until a satisfactory response is received. With regard to country visits, the Special Representative will periodically remind the Governments concerned of the observations and recommendations formulated in the respective reports, requesting information on the steps taken to implement them.

50. As a general rule, the Special Representative will make herself available on the widest basis to the greatest extent of her abilities. She will seek to establish - and has already taken steps in this direction - direct contact with Governments, relevant domestic authorities,

intergovernmental organizations, relevant institutions, international, regional and national non-governmental organizations, academic institutions and individuals. Owing to the nature of her mandate, regular contact will be maintained with NGOs in order to seek information from them. In this regard, specific guidelines - similar to the ones developed by other mechanisms - on how to submit information to the Special Representative will be elaborated in the near future and will be accessible on the OHCHR Web site.

51. The Special Representative would like to take advantage of the existing field presences of the Office of the High Commissioner for Human Rights throughout the world. In this regard, she will not only seek information from them but also consult them concerning concrete cases of violations and situations. For any communication sent to the Government of a country which has a field presence, a copy will systematically be sent to the field office concerned. In this regard, the Special Representative considers cooperation with OHCHR to be particularly important to broadening the impact of her work. She would like OHCHR, in the elaboration of its technical cooperation programmes, to take into account the recommendations she would make on the countries concerned. The Special Representative will also make herself available for any consultations in this regard.

52. In addition, the Special Representative considers research to be an important component of the mandate in elaborating an effective strategy to protect human rights defenders. Priority should be given to studies which would increase knowledge about repressive trends, measures and practices affecting human rights defenders. A first study should be undertaken on national legislation on freedom of association and how it can be used to affect, negatively or positively, the promotion of human rights and the work of defenders. To this end, the Special Representative will seek support from and collaboration with any interested institute/foundation/university in order to initiate research in areas relevant to the development of the mandate.

III. ACTIVITIES

53. The Special Representative initiated her work at the end of September 2000. Owing to the large number of allegations she has already received providing details of incidents and cases of violations of the rights of human rights defenders, the Special Representative has begun to transmit summaries of these cases to the Governments concerned. In this regard, she sent seven urgent appeals to the following countries: Columbia (1), Guatemala (1), Indonesia (3) and Tunisia (2). In addition, the Special Representative sent four communications to the following countries: Indonesia (2), Iran (Islamic Republic of) (1) and Malaysia (1). During this period the Special Representative joined with the Special Rapporteur on torture to send two urgent appeals, to Indonesia. The Special Representative also joined with the Special Rapporteur on extrajudicial, summary or arbitrary executions to send urgent appeals in two cases, to Guatemala and Indonesia respectively. As well, one communication was sent jointly with the Chairman-Rapporteur of the Working Group on Arbitrary Detention (Indonesia), the Special Rapporteur on violence against women (Indonesia) and the Special Rapporteur on torture (Indonesia).

54. In accordance with paragraph 3 (a) of resolution 2000/61 requesting the Special Representative to seek, receive, examine and respond to information on the situation of human

rights defenders, a note verbale dated 10 October 2000 was sent to all permanent missions to the United Nations and the United Nations Office at Geneva to request any information deemed relevant to her mandate.

55. Replies were received from the Governments of Cuba, Kuwait and Azerbaijan. The Government of Cuba sent a response to the Special Rapporteur on 17 November 2000 explaining that it opposed the proposal to appoint a special representative on human rights defenders because the countries promoting the initiative had "upset a delicate balance reached on the subject". The Government expressed several reservations and apprehensions regarding the implementation of the mandate. The Special Representative appreciates the openness with which the Government of Cuba expressed its opposition to the creation of the mechanism, and availed herself of this opportunity to initiate a dialogue with the Government on a clearer understanding of the mandate. To the extent that the response of the Government raised questions of principle regarding the mandate, the Special Representative decided to reply. The communication received from the Government of Cuba and the response of the Special Representative are annexed to this report.

56. In a communication dated 23 November 2000, the Government of Kuwait expressed its support of the mandate, since the defence of human rights is a praiseworthy act that deserves commendation. However, they noted that such acts should be undertaken through authorized channels and within the limits of the law and national sovereignty by State-recognized national bodies. In this connection, the State of Kuwait has attached great importance to human rights law in its legislation, internal regulation and its Constitution, which prohibits various violations of human rights and establishes the principle that there is no crime or punishment except as defined by law. Under the Constitution, any individual has the right to petition the public authorities and everyone has a guaranteed right to legal redress. This applies equally to individuals and groups defending human rights seeking protection from acts of violations to which they were subjected while discharging their functions, or redress and amends for any damage suffered. The response of the Government of Kuwait is available at OHCHR.

57. In its communication dated 12 December 2000, the Government of Azerbaijan set out the methods by which it safeguards the rights and freedoms of individuals and citizens, and confirmed that the international treaties to which Azerbaijan is a party are an integral part of the Azerbaijani legal order. Azerbaijan has taken several human rights measures including the planned institution of an ombudsman or commissioner for human rights, the abolition of capital punishment and the reinstatement of presidential pardons. Further, a new criminal code was introduced and legislation regulating the police, the procurator's office, the legal profession and notaries was adopted. In addition, measures are being taken to ensure freedom of the press, freedom of non-governmental organizations, the facilitation of a trade union movement, the increased participation of women in public affairs and the amelioration of the situation of refugees and forcibly displaced persons.

58. By communication dated 12 October 2000, requests for information were also sent to the main international and regional non-governmental and other organizations. In response to this request, the Special Representative has received introductory and congratulatory messages from the following organizations: African Centre of Technology (6 December 2000), Asia Pacific Forum of National Human Rights Institutions (6 November 2000), Asia-Pacific Human Rights

Information Center (24 October 2000), Centre for Policy Research (30 October 2000), United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (18 October 2000), International Council of AIDS Service Organizations (5 December 2000), Medical Rehabilitation Center for Torture Victims (24 November 2000), National Organization of Defenders for Human Rights Activists (22 September 2000).

59. The Special Representative would like to thank all the Governments and non-governmental organizations that replied to her notes verbales.

60. After her appointment in August, the Special Representative held consultations with the Office of the High Commissioner for Human Rights in September. She had the opportunity to meet with the High Commissioner and discuss conceptual and practical issues connected with the implementation of the mandate. The High Commissioner's commitment to the cause of human rights defenders and her support for the new mechanism was apparent in the help and guidance she provided to the Special Representative in taking practical steps for initializing her work. The Special Representative was also able to meet with and be briefed by thematic and geographic experts in OHCHR, who helped her become more familiar with the United Nations human rights system and the mechanisms working within it.

61. The Special Representative held consultations in New York at the end of October 2000. She met with the Secretary-General to discuss the mandate entrusted to her, at which time the Special Representative outlined her understanding of the mandate and some of the issues of special concern to her regarding the situation of human rights defenders. The Special Representative is greatly encouraged by the Secretary-General's interest in the mandate and will keep the Office of the Secretary-General informed with regard to the development of her mandate and any issues on which she may require his guidance or support, for the better implementation of the mandate.

62. The Special Representative also initiated contact with Governments through an informal dialogue with delegations at the Third Committee held on 31 October 2000 during the fifty-fifth session of the General Assembly in New York. While in Geneva in December 2000, she met with regional groups of the Commission on Human Rights.

63. Since September, consultations with NGOs have also been an important part of her activities. She met with international NGOs to discuss with them the potential scope and development of the mandate and to receive briefings on the situation of human rights defenders. In this regard, the Jacob Blaustein Institute hosted a seminar on 20 September 2000. The International Council for Human Rights Policy set up consultations with various other NGOs on 19 October 2000. On 1 and 2 December 2000, International Service for Human Rights held a seminar on the mandate as well. During this particular meeting, the Special Representative had the opportunity to discuss cooperation with other thematic mechanisms. In this regard, the Special Representative sent a letter on 23 October 2000 to special rapporteurs and chairpersons of working groups inviting their cooperation and seeking their advice, to which the Special Representative continues to receive very encouraging and positive responses.

IV. COUNTRY SITUATIONS

64. This section contains brief summaries of urgent appeals and communications to and from Governments, along with the observations of the Special Representative. In order to leave enough time for Governments to respond, only the communications sent before 1 December 2000 are included in the report.

Colombia

Communication sent

65. On 12 October 2000, the Special Representative sent an urgent appeal concerning the disappearance on 6 October 2000 of Angel Quintero and Claudia Patricia Monsalve Pulgarín, two members of the Asociación de Familiares de Detenidos-Desaparecidos (ASFADDES), in Medellín. It has been reported that Mr. Quintero had received threats prior to his disappearance as a result of his investigation of the disappearance of Ruben Usaga Higuita, Wilson Usaga Higuita and Arvey Poso Usaga on 25 August 2000. According to the information received, Ms. Monsalve Pulgarín had been working on her brother's disappearance in 1995 to which police officers have allegedly been linked. In her communication, the Special Representative expressed concern regarding the threats that members of ASFADDES had allegedly received over the last few months.

Communications received

66. The Government of Colombia sent two letters of reply, on 24 October and 30 October 2000, in which it stated that an investigation into the disappearance of Mr. Quintero and Ms. Monsalve Pulgarín had been opened on 10 October 2000 by the Cuerpo Técnico de Investigaciones de Medellín.

Observations

67. The Special Representative thanks the Government of Colombia for its prompt replies but continues to be concerned about the safety of these two human rights defenders who, at the date of the finalization of this report, are still missing.

Guatemala

Communication sent

68. On 24 November 2000, the Special Representative, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, sent an urgent appeal concerning death threats to which the workers of the National Human Rights Procurator (Procuraduría de Derechos Humanos) of Sololá have been subjected following the opening of an investigation into the murder of Teodoro Saloj. Concerns were expressed for the safety of the workers, especially as they had announced on 6 November 2000 that the results of their investigation pointed to the involvement of nine agents of the Policía Nacional Civil.

Observations

69. No reply from the Government has been received so far.

Indonesia**Communication sent**

70. On 2 November 2000, the Special Representative sent an urgent appeal jointly with the Special Rapporteur on torture with regard to the arrest of M. Yusuf by the Indonesian security forces on 1 November 2000 in East Aceh. His arrest was reportedly connected to his participation in the organization of the People's Congress for Victims of Human Rights Violations in Aceh, which was to take place from 4 to 6 November. M. Yusuf was believed to be held without charge and fears were expressed that he was at risk of torture as he was detained incommunicado at an unknown location.
71. On 7 November 2000, the Special Representative transmitted a communication requesting information concerning an increase of acts of intimidation by the military and the police against human rights defenders in the province of Aceh. The Special Representative expressed concern, in particular, with regard to: the assassination on 16 September 2000 in Banda Aceh of Safwan Idris, the rector of the Al-Raniry State Islamic Institute and a human rights activist; the killing of Jafar Siddiq Hamzah, a prominent human rights lawyer and activist found dead on 3 September 2000 near Medan in what is allegedly a known dumping ground for victims of the Indonesian military and police; and the abduction and beating of Muzakir and Mohamed Saleh, two student activists, on 19 September 2000 in Banda Aceh, allegedly by members of the Indonesian police intelligence force, POLRA.
72. The Special Representative sent an urgent appeal on 10 November 2000 together with the Special Rapporteur on torture regarding the arrest of Rusli and Sofyan, two volunteers with the People's Crisis Centre, on 7 November 2000. Reportedly arrested by the Police Mobile Brigade, the two individuals were said to be detained without charge and to be at risk of torture.
73. On 13 November 2000, the Special Representative transmitted a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions concerning Aguswandi, an Acehnese human rights defender working for the Congress for Victims of Human Rights Violations, who has allegedly been subjected to death threats. According to the information received, members of the Police Mobile Brigade went to the office of a legal aid group on 3 November 2000 asking about Aguswandi's whereabouts. On the following day, Aguswandi reportedly managed to escape armed individuals in civilian clothes who were looking for him.
74. On 22 November 2000, the Special Representative, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on torture, the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on violence against women, transmitted a communication to the Government of Indonesia expressing her deep concern with regard to massive human rights violations occurring in the province of Aceh. Concerns were expressed with regard to a pattern of serious human rights violations targeting human rights defenders and conditions affecting the work of human rights

defenders making them vulnerable to, in particular, extrajudicial execution, acts of torture, including sexual violence, committed by the military and security forces; and numerous detentions without arrest warrants.

75. In this regard, a joint press release was issued on 22 November 2000 outlining the human rights violations against human rights defenders set out above. The Special Representative, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on torture, the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on violence against women, appealed to the Government of Indonesia to provide information regarding the reports of abuses and to ensure the right to life, the right to physical and mental integrity and the right to be free from arbitrary arrest and detention of the population of Aceh.

Observations

76. The Special Representative has not yet received a response from the Government.

Iran (Islamic Republic of)

Communication sent

77. On 7 November 2000, the Special Representative sent a communication requesting information about the sentencing on 27 September 2000 of Ms. Chirin Ebadi and Mr. Mohsem Rahami, two lawyers and human rights defenders, by the Court of Tehran. Both individuals were reportedly sentenced to a 15-month suspended sentence of imprisonment and a five-year revocation of their civil rights, including the practice of law. It has been reported that the trial was conducted without regard to the international standards for a fair trial.

Observations

78. The Special Representative awaits a reply from the Government.

Malaysia

Communication sent

79. The Special Representative transmitted a communication to the Government of Malaysia on 7 November 2000 regarding the trial of Irene Fernandez, a human rights activist and director of the Malaysian human rights organization Tenaganita. According to the information received, she has been charged with publishing "false news" in connection with a report published in 1995 in which she described grave violations against migrant workers in government detention camps. It has been reported that the trial of Ms. Fernandez was characterized by numerous irregularities, notably postponements, recesses and adjournments which make it the longest running criminal prosecution in Malaysia.

Observations

80. The Special Representative has not yet received a reply from the Government.

Tunisia**Communications sent**

81. On 15 November 2000, the Special Representative sent an urgent appeal concerning Dr. Moncef Marzouki, spokesperson for the National Committee for Freedom in Tunisia. According to the information received, Dr. Marzouki had been called before a judge on 23 October 2000 and charged with belonging to a non-recognized organization, with defamation, and with propagating false news, allegedly in connection with a written contribution which he made to the Congress of Arab Human Rights Defenders in early October 2000. It has been reported that he faces up to 20 years' imprisonment. Moreover, Dr. Marzouki learned on 20 October 2000 that he is prohibited from leaving the country, a month after he was dismissed from his job as a professor of medicine at the University of Sousse.

82. On 29 November 2000, the Special Representative sent an urgent appeal to the Government of Tunisia to express her concern over the suspension of the new executive of the Tunisian League for Human Rights. According to the source, on 27 November 2000 a Tunis court suspended the League's activities following a complaint by four members, known to be close to the authorities, that elections to the organization's governing body at the end of October had been unfair. It was also reported that the Tunisian authorities were watching the League's offices and that the members, employees and individuals working with the League could be arrested and charged for their activities with this organization.

Observations

83. No reply from the Government has been received so far.

United Kingdom of Great Britain and Northern Ireland

84. The Special Representative has received recent allegations from various sources regarding the situation of human rights defenders in Northern Ireland. Concerns have been raised regarding the continued lack of an independent public inquiry into the murder of lawyer Patrick Finucane in 1989 and regarding the investigation into the assassination of solicitor Rosemary Nelson on 15 March 1999. The Special Representative acknowledges the work done in this area by the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on freedom of opinion and expression. She would encourage the Government of the United Kingdom of Great Britain and Northern Ireland to implement the recommendations made on these issues by the two mechanisms of the Commission on Human Rights.

V. CONCLUDING REMARKS

85. Significant advances have been made in recent years in creating or strengthening legal and normative frameworks for the protection of human rights defenders in many parts of the world. However, one recurrent problem remains the lack or inefficient implementation of these norms in practice. The Special Representative is particularly eager to develop strong working relationship with mechanisms established at the national or subregional level with a view to promoting and protecting human rights. Similarly, she will seek to study the legislation and jurisprudence of Member States with a view to defining, in a progressive manner, a set of "good experiences or practices" which she will share with governmental or non-governmental partners. Lastly, she will also seek innovative forms of cooperation in promoting the rights of human rights defenders, including in the area of dissemination of information and awareness-building.

86. The Special Representative is deeply concerned at the considerable number of communications she has already received that allege serious violations targeting human rights defenders throughout the world. In particular, the Special Representative is concerned that a variety of repressive trends, measures and practices persist which threaten the freedom of action of human rights defenders. No region is free of these trends. While the sources of support for human rights defenders have been slow to emerge, the quarters from which the threats emanate are growing fast. The failure of States to offer effective guarantees against the violation of fundamental rights has given a more critical dimension to issues of human security. Disparities in economic, social and political empowerment emphasize the need for groups and individuals who strive to facilitate the exercise of rights by others. It is an unfortunate reality that the role of human rights defenders is not recognized or accepted by Governments in many parts of the world. State apparatus, oppressive laws and other tools of repression continue to be used against defenders in attempts to deter them from the valuable work they contribute to the promotion of human rights.

87. Reports submitted by some of the special procedures mechanisms at the fifty-fifth and fifty-sixth sessions of the Commission on Human Rights indicated the serious nature of the risks faced by human rights defenders. The Special Representative wishes to recall cases brought to the attention of the Commission in order to emphasize the need for strong and effective measures for the protection of defenders. These reports also brought to light trends and practices being used to affect adversely the promotion of human rights.

88. The Working Group on Arbitrary Detention reported cases of 15 human rights defenders from eight countries (see E/CN.4/1999/63 and Add.1; E/CN.4/2000/4 and Add.1 and 2). The Special Rapporteur on the independence of judges and lawyers expressed concern at information received in 34 cases from 16 countries regarding the violation of rights to which human rights defenders were being subjected (see E/CN.4/1999/60; E/CN.4/2000/61 and Add.1). The Special Rapporteur on freedom of opinion and expression expressed concern regarding the cases of 18 defenders in 8 countries (see E/CN.4/1999/64; E/CN.4/2000/63 and Add.1, 3 and 4). Reports of the Working Group on Enforced or Involuntary Disappearances contained information on cases of 13 defenders in 7 countries (see E/CN.4/1999/62 and Add.1 and 2; E/CN.4/2000/64). The Special Rapporteur on extrajudicial, summary and arbitrary executions reported on violence and threats of violence faced by 21 human rights defenders in 11 countries (see E/CN.4/1999/39 and Add.1; E/CN.4/2000/3 and Add.2 and 3). The Special Rapporteur on torture reported on

cases of 61 defenders from 21 countries (see E/CN.4/1999/61 and Add.1; E/CN.4/2000/9 and Add.1 and 4). These were cases that these special procedures could take up within their mandates. There are several more who are not covered by these mandates and who are consistently being subjected to oppressive practices which have serious consequences that diminish prospects for the promotion and protection of human rights in many parts of the world.

89. The measure of success of the work of the Special Representative would be the degree of security that this mechanism can instil in those acting for the promotion and protection of human rights. To achieve the purpose for which the mandate has been established the Special Representative considers the following as requiring her special attention:

(a) The activities of armed groups, sponsored by the State or acting independently, as well as those of military, paramilitary or other security groups, have become a major threat to the exercise of human rights and fundamental freedoms. These groups pose a major threat to the security of human rights defenders and are directly or indirectly undermining or jeopardizing their work. This well-known factor will need specific consideration within the framework of this particular mandate. The experience gained by other special procedures, by treaty bodies or by OHCHR field presences (see E/CN.4/2000/11) will be of great assistance in identifying the main issues to be dealt with, the objectives which the Special Representative may reasonably wish to achieve and the specific strategies which would have to be developed to reach them;

(b) As mentioned above, the rights to freedom of association, assembly and movement are not specifically covered by any particular thematic mandate. It is urgent to undertake a comprehensive review of the implementation of the Declaration in this area and dwell in an appropriate manner on the investigation of individual cases;

(c) One of the main characteristics of the Declaration is to address defenders as a group or as individuals with specific rights and freedoms. It is important to study the repressive measures faced by the defenders as groups, as well as the risks they face as individuals active in the promotion and protection of civil, cultural, economic, political and social rights;

(d) The Special Representative intends to pay particular attention to devising appropriate strategies for the implementation of the Declaration's provisions relating to the protection of human rights activists seeking democratic transformation and reacting against or opposing, through peaceful means, acts resulting in violation of human rights;⁸

(e) Human rights defenders may be targeted in many different ways, including by the enactment of laws criminalizing certain aspects of human rights activity, or for exercising their freedoms of association, assembly, information and movement. Regulatory frameworks may be imposed to limit their freedom of association or restricting the scope of activities by non-governmental organizations. This structural threat to the activities of human rights defenders will need specific attention in the work of the Special Representative and, accordingly, she will coordinate and compile any such legislation or regulatory framework with a view to drawing lessons from them and formulating appropriate recommendations to overcome their negative consequences insofar as the enjoyment of the rights set forth in the Declaration is concerned;

(f) The situation of human rights defenders subjected to prosecution and judicial investigation under such laws and their sentencing after unfair trials will be a matter of serious concern for the Special Representative. It will be of particular importance to determine what measures or steps should be contemplated by the Special Representative in cooperation with Member States with a view to looking into the matter, drawing specific conclusions and recommending remedial measures to the concerned authorities, including forms of compensation;

(g) Greater risks are faced by defenders of the rights of certain groups as their work challenges social structures, traditional practices and interpretations of religious precepts that may have been used over long periods of time to condone and justify violation of the human rights of members of such groups. Of special importance will be women's human rights groups and those who are active on issues of sexuality, especially sexual orientation and reproductive rights. These groups are often very vulnerable to prejudice, to marginalization and to public repudiation, not only by State forces but by other social actors. The Special Representative will undertake or encourage studies of any such phenomena with a view to drawing up a compendium of possible measures to enhance the protection of such human rights defenders;

(h) As was made clear in the context of the adoption of the Declaration and the setting-up of this mandate, reprisals and repressive measures may be taken against individuals and groups who have reported alleged human rights abuse to international bodies, including the United Nations human rights mechanisms. It is the intention of the Special Representative to explore such matters further since occurrences of such violations are detrimental to the activities of procedures which are at the core of the United Nations human rights mechanisms;

(i) Lastly, the Special Representative will pay attention to the long-standing issue of states of emergency and the ensuing occurrence of impunity insofar as they affect the activities of human rights defenders. In several countries, appropriate human rights legislation may have been enacted long ago without being properly implemented because of an almost continuous state of emergency. The extent to which such legislation may be of relevance in the consideration of the rights of human rights defenders will need to be examined with attention.

90. The Special Representative is of the view that effective implementation of the mandate depends upon the availability of adequate human and material resources. The mandate, as created by the Commission on Human Rights, does not have financial implications which presupposes that it relies on extrabudgetary funds. Without appropriate resources, the expectations raised by this mandate will not be satisfied and it will be difficult for the Special Representative to carry out her work thoroughly and with the necessary degree of efficiency.

91. The Special Representative is required by the mandate to recommend effective strategies to better protect human rights defenders and to follow up these recommendations. Appraisals, situational analyses and research are necessary for this purpose. Areas for this activity have been identified, and the Special Representative shall make every effort to complete the initial studies and present her recommendations to the Commission and the General Assembly in her subsequent reports.

Notes

¹ See reports of the Secretary-General to the Commission on Human Rights (E/CN.4/2000/95) and to the General Assembly (A/55/292) submitted pursuant to Commission resolution 1999/66 and General Assembly resolution 54/170, respectively.

² "Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels."

³ "The General Assembly ... acknowledging the important role of international cooperation for, and the valuable work of individuals, groups and associations in contributing to the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals, including in relation to mass, flagrant or systematic violations such as those resulting from apartheid, all forms of racial discrimination, colonialism, foreign domination or occupation, aggression or threats to national sovereignty, national unity or territorial integrity and from the refusal to recognize the right of peoples to self-determination and the right of every people to exercise full sovereignty over its wealth and natural resources."

⁴ "1. In the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights.

"2. To this end, everyone whose rights or freedoms are allegedly violated has the right, either in person or through legally authorized representation, to complain to and have that complaint promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law and to obtain from such an authority a decision, in accordance with law, providing redress, including any compensation due, where there has been a violation of that person's rights or freedoms, as well as enforcement of the eventual decision and award, all without undue delay.

"3. To the same end, everyone has the right, individually and in association with others, inter alia:

"(a) To complain about the policies and actions of individual officials and governmental bodies with regard to violations of human rights and fundamental freedoms, by petition or other appropriate means, to competent domestic judicial, administrative or legislative authorities or any other competent authority provided for by the legal system of the State, which should render their decision on the complaint without undue delay;

"(b) To attend public hearings, proceedings and trials so as to form an opinion on their compliance with national law and applicable international obligations and commitments;

"(c) To offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms."

⁵ In this regard, reference is made to the final report of the independent expert, Mr. M. Cherif Bassiouni, submitted in accordance with Commission resolution 1999/33 on the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms (E/CN.4/2000/62) and its annex, entitled "Basic principles and guidelines on the right of victims to a remedy and reparation for victims of violations of international human rights and humanitarian law".

⁶ In particular, in the course of examining States parties' human rights situations, treaty bodies have placed emphasis on the fact that intimidation and oppression of human rights defenders might give rise to impunity for the perpetrators of human rights violations. In the concluding observations adopted following its examination of one report, the Human Rights Committee underlined, for instance, that the repeated instances of intimidation of judges, prosecutors, witnesses, victims and their relatives, human rights activists and journalists largely accounted for the absence of decisive action by the bodies that should investigate and try crimes and for the continuance of impunity. On another occasion, it also pointed out that members of various social sectors, particularly members of the judiciary, lawyers, journalists, human rights activists, members of trade unions and members of political parties, were subject to intimidation, death threats and even murder, thus facing serious obstacles in the legitimate performance of their duties. The Committee deplored that effective measures had not yet been taken to prevent the recurrence of such acts. It went on to urge the Government concerned to take all necessary steps, including protective and pre-emptive measures, to ensure that members of various social sectors, particularly members of the judiciary, lawyers, journalists, human rights activists, members of trade unions and members of political parties, were enabled to perform their duties without intimidation of any sort. With respect to article 22 of the Covenant, the Committee also had the opportunity to express its concern about the difficulties arising from the registration procedures to which non-governmental organizations and trade unions were subjected. The Committee also expressed concern about reports of cases of intimidation and harassment of human rights activists by the authorities, including their arrest and the closure of the offices of certain non-governmental organizations. In that regard, the Committee, reiterating that the free functioning of non-governmental organizations was essential for the protection of human rights and the dissemination of information in regard to human rights among the people, recommended that laws, regulations and administrative practices relating to their registration and activities be reviewed without delay in order that their establishment and free operation might be facilitated in accordance with article 22 of the Covenant.

⁷ Another instance of possible cooperation can be found in the procedure established by the United Nations Educational, Scientific and Cultural Organization in accordance with decision 3.3. adopted by the Executive Board at its one hundred and fourth session in 1978 through which the Committee on Conventions and Recommendations, a subsidiary body of the organization's Executive Board, examines complaints concerning alleged violations of human rights falling within UNESCO's fields of competence, namely education, science, culture and information. The right to information, including freedom of opinion and expression (Universal Declaration, art. 19), and the right to education are of particular relevance to the Special Representative's effort to implement her mandate and victims of the violations of these two categories of rights are often themselves human rights defenders, including researchers, writers, journalists and intellectuals who seek to promote and protect human rights.

⁸ See article 18 of the Declaration on Human Rights Defenders:

"1. Everyone has duties towards and within the community, in which alone the free and full development of his or her personality is possible.

"2. Individuals, groups, institutions and non-governmental organizations have an important role to play and a responsibility in safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies, institutions and processes.

"3. Individuals, groups, institutions and non-governmental organizations also have an important role and a responsibility in contributing, as appropriate, to the promotion of the right of everyone to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights and other human rights instruments can be fully realized."

Annex I*

**NOTE VERBALE DATED 17 NOVEMBER 2000 FROM THE PERMANENT MISSION
OF CUBA TO THE UNITED NATIONS OFFICE AT GENEVA ADDRESSED TO THE
SPECIAL REPRESENTATIVE OF THE SECRETARY-GENERAL**

The Permanent Mission of the Republic of Cuba to the United Nations Office and International Organizations with Headquarters in Switzerland presents its compliments to the Special Representative of the Secretary-General on human rights defenders and, with reference to its note G/SO 214 (107), prepared in accordance with Commission on Human Rights resolution 2000/61, has the honour to forward the comments of the Government of the Republic of Cuba.

As you may know, the Government of Cuba opposed the proposal to appoint a Special Representative of the Secretary-General on human rights defenders, because the countries promoting the initiative upset a delicate balance reached after years of intense negotiations and even disregarded the outcome of the consultations on the subject.

The Government of Cuba wishes to point out that the adoption by consensus of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms was possible only after many years of negotiation. Moreover, the process was not successful in achieving all the proposed objectives. In the end, the issue of defining the responsibilities of individuals and groups towards the societies in which their rights can be realized was never settled.

When the Declaration was adopted by the General Assembly, an interpretative declaration was drawn up on behalf of 26 delegations, including that of Cuba, and was circulated as an official United Nations document (A/53/679).

The Government of Cuba would like to reiterate some of the ideas contained in that document:

1. Only the State can adopt legal, legislative and administrative guarantees to ensure that all persons under its jurisdiction are able to enjoy those rights and freedoms.
2. The implementation of the Declaration and international cooperation in promoting that objective should be in full conformity with the Charter of the United Nations, particularly with:
 - (a) Respect for the sovereignty of States and their territorial integrity;
 - (b) Non-interference in the internal affairs of States.
3. The rights and obligations stipulated in the Declaration should be exercised in full conformity with domestic law, which is the juridical framework within which human rights and fundamental freedoms should be implemented and enjoyed and within which all activities referred to in the Declaration should be conducted.

* Reproduced in English and Spanish only.

4. Recourse to international human rights mechanisms is a supplementary right that presupposes that all domestic remedies have been exhausted.
5. Funding for activities to promote and protect human rights must comply fully with the domestic law of the State concerned.

The above ideas are all still valid, particularly when the aim is clearly to exploit the promotion and protection of human rights for the purpose of "legitimizing" intervention and interference in the internal affairs of developing countries.

There are many reasons for Cuba's concern about the dominant trends taking shape in the implementation of the Declaration, including:

1. There has been an attempt to use the term human rights "defenders" only when referring to the implementation of the Declaration, to the exclusion of other important international human rights instruments such as the Declaration on the Right to Development.
2. There has been an attempt to consider only individuals and non-governmental organizations as belonging to the category of human rights defenders, to the exclusion of State activities. According to this logic, there would appear to be no States that are defenders of human rights. Peoples, as a social category, would also appear to be ineligible for inclusion in the category of defenders, so that the peoples of the South who are working to realize their right to development could apparently not be described as defenders.
3. Reflecting the bias of one group of countries with regard to the various categories of human rights, the title of "defenders" is used almost exclusively where the activity relates to the promotion and protection of civil and political rights.

The term "defenders" is not applied to those non-governmental organizations working to defend the right to a healthy environment - they are merely "environmental organizations" and the organizations defending the rights of indigenous peoples are just "indigenous organizations".

4. Where developing countries are concerned, it is argued that defenders must, by definition, be members of the political opposition to the Government, especially in cases where the Government does not fit in with the major Western Powers' geopolitical control models.

Attempts are made to impose the view that no Government in the South really represents the will of the people. Even then, non-governmental organizations whose work is in line with governmental policies and programmes are accused of siding with the Government or simply of being its agents.

It can nevertheless not be forgotten that the description applied by the Western media monopolies to many genuine human rights defenders from the peoples of the South who were forced to rebel against the military dictatorships imposed on them with the support of the major world Power was not "human rights defenders", but "Marxist rebels" or even "terrorists".

5. Some non-governmental organizations from the North working in the field of civil and political rights can be seen to be claiming a monopoly on the worldwide representation of so-called defenders, hindering access to international decision-making bodies by thousands of grass-roots and local organizations from the countries of the South.

6. Outside funding for the activities of so-called human rights defenders still shows clear patterns of selectivity and political manipulation and is sometimes a front for the funding of activities that are incompatible with the Charter of the United Nations.

In the case of Cuba, the term "human rights defender" should be applied first and foremost to the people as a whole: it is fighting for its right to life, development and self-determination in the face of political genocide in the form of the hostility and embargo to which it is subjected by the Government of the United States of America.

The United States Government, while cutting off the Cuban people from the resources it needs to buy, such as food and medicine, has finally acknowledged publicly that it has used federal funds to finance counter-revolutionary groups in Cuba.

Attempts are made to present these groups, which are set up, funded and controlled by the United States Government and by the Miami-based mafia of Cuban origin, as human rights defenders to try to create the impression that there is internal political opposition in Cuba and thereby make it easier to "justify" their aggression against the Cuban people.

This criticism of the trends and dangers outlined above does not mean that the Government of Cuba is unaware of the importance of protecting individuals and groups which are being persecuted all over the world and even risking their lives for the cause of human rights.

The victims of summary and arbitrary executions, disappearances, arbitrary detention, all forms of racism, racial discrimination, xenophobia, foreign occupation and domination, poverty, hunger and other denials of economic, social and cultural rights, religious intolerance, terrorism and discrimination against women, as well as all those fighting to eradicate those practices and to promote a world where peace, justice and development are given priority, will have Cuba's full respect and support.

Cuba was a fervent proponent of the idea that the follow-up to and implementation of the Declaration should be carried out in a comprehensive and inclusive manner, in fulfilment of the mandates of all the arrangements and procedures of the United Nations human rights mechanisms and not through the creation of a new mechanism that could be politically manipulated and used selectively and in a discriminatory fashion against the countries of the South.

Now that the mechanism is in place, Cuba, despite its opposition, welcomes the fact that the mandate has been entrusted to someone from the South and believes it has a duty to bring the above points to her attention.

Annex II*

**LETTER DATED 5 JANUARY 2001 FROM THE SPECIAL REPRESENTATIVE
OF THE SECRETARY-GENERAL TO THE PERMANENT REPRESENTATIVE
OF CUBA TO THE UNITED NATIONS OFFICE AT GENEVA**

I would like to thank you for your comments in response to my note verbale dated 10 October 1999. I appreciate the openness with which you have expressed your Government's position on the creation of the mechanism of the Special Representative of the Secretary-General on human rights defenders. You have raised serious issues with regard to the implementation of the mandate entrusted to me, and I welcome this opportunity to initiate a meaningful dialogue between your Government and myself for a clearer understanding of the mandate.

I am happy to note that in some aspects we share a common understanding that could help us to agree on the scope of the mandate. In my view the term "human rights defenders" is not restricted only to those seeking protection and promotion of civil and political rights. The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms recognizes those striving for the promotion, protection and realization of social, economic and cultural rights as human rights defenders. Therefore, those defending the right to a healthy environment, or promoting the rights of indigenous peoples would, by no means, fall outside the ambit of any definition of a human rights defender.

The Declaration reaffirms the importance of human rights instruments adopted within the United Nations system (preambular paragraphs 2 and 6, articles 4, 14 and 18). There is, therefore, no reason to assume that provisions of the Declaration on the Right to Development, where relevant, would be excluded from consideration under this mandate.

You have mentioned the interpretative declaration drawn up on behalf of 26 delegations, and have reiterated some of the ideas in that document. There can be no argument with the position that only the State can adopt legal, legislative and administrative guarantees, in conformity with international standards, to ensure that all persons under its jurisdiction are able to enjoy those rights and freedoms. It is, however, a responsibility of the international community to urge and persuade States to fulfil this important obligation, and to take note of situations where enjoyment of these rights and freedoms are impeded by acts or omissions of the State. In this context there can be no doubt about the legitimacy of international concern on situations adversely affecting the enjoyment of human rights.

No doubt, issues of national sovereignty and territorial integrity could be a concern in several aspects of international relations. However, it is difficult to understand how promotion and protection of human rights, and concern regarding violation of these rights, infringe upon the concept of State sovereignty or pose a threat to the territorial integrity of a State. It is,

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nevertheless, true that the international community can promote and protect human rights only by means that are transparent and based on respect for the aspirations of the people for whose protection any concern is expressed. Special procedures of the United Nations human rights system are created by Member States, and this aspect is carefully built into the working of the mechanisms. Therefore, I see no cause for apprehension in this regard or for a lack of confidence in the implementation of any of the mandates of these procedures.

On the other hand, it is disturbing that whenever attention is drawn to the conduct of any State that amounts to violation of human rights, any expression of concern is rejected as interference in the internal affairs of the State or an infringement of the sovereignty of the State. The tendency of States to use such arguments in order to avoid accountability for human rights abuse must be discouraged if effective modes of complying with human rights standards are to be established within the United Nations system. I hope that Member States will jointly endeavour to do so.

I am unable to agree with your interpretation of the juridical framework prescribed in the Declaration for the implementation and enjoyment of human rights and fundamental freedoms. While domestic law in conformity with the Charter of the United Nations constitutes the juridical framework, it has to be read with article 4 of the Declaration. There is no scope for an interpretation of these provisions which implies that recourse to international human rights mechanisms is a supplementary right which presupposes that all domestic remedies have been exhausted.

I am aware that the question of funding for activities for promotion and protection of human rights has emerged as an issue of concern. Non-governmental organizations, particularly those working for human rights, are increasingly being subjected to limitations that would affect their capacity and outreach. International cooperation for the promotion of human rights implies that both the State and civil society should have access to resources for this important activity. Restrictions on receiving funds by human rights organizations have often been imposed as a measure to impede their activities for the protection of human rights. States have often raised this as an issue of national security, independence or sovereignty. Any apprehension in this regard seems to be misplaced, simply because the nature of the activity must determine its validity and genuineness. Promotion of human rights and fundamental freedoms of the people, in whose name the State claims sovereignty, can hardly be seen as a threat to the State.

One of Cuba's concerns about the dominant trends taking shape in the implementation of the Declaration is that States are excluded from being considered as "defenders". Without going into any lengthy arguments on the role of the State, I would like to draw your attention to article 2 of the Declaration which places the prime responsibility and duty for the protection, promotion and implementation of all human rights on the State, by offering effective guarantees for enjoyment of these rights. In this context it would be more appropriate for the State to consider itself as a "guarantor" of rights and to take all possible measures to fulfil this obligation.

As I do not see some of the dangers and trends you perceive and criticize as relevant to my mandate, no useful purpose may be served by any mandate on my part to respond to these. I may, however, state that this is a mandate for the protection of the right, individually and in association with others, to promote, protect and strive for the realization of human rights and

fundamental freedoms at the national and international levels (article 1 of the Declaration and General Assembly resolution 53/144). It will be used for the protection of defenders wherever the situation so demands. The mandate is concerned with the elimination of oppressive trends and practices and seeks to mitigate any threats to those striving for the implementation of human rights. It would not be fair to presume its implementation to be biased against or in favour of any region.

Cuba's recognition of the importance of protecting individuals and groups who strive for the cause of human rights despite the persecution and grave risks they face is appreciable. I am greatly encouraged by your Government's assurance of full respect and support for victims of human rights violations, as well as for those who strive for the eradication of such practices. Cuba's support and respect, founded on the recognition that activities for the elimination of human rights violations will lead to a world order where peace, justice and development are given priority, gives me greater hope that Cuba will be able to overcome its reservations on the setting-up of this mechanism.

Let me assure you, Excellency, of my keenness to continue a constructive discussion on these issues.



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Fifty-seventh session
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PROMOTION AND PROTECTION OF HUMAN RIGHTS

The enhancement of international cooperation in the field of human rights

Report of the High Commissioner for Human Rights submitted in accordance
with Commission resolution 1999/68

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Introduction

1. At its fifty-fifth session, the Commission on Human Rights, in its resolution 1999/68, called upon States, intergovernmental organizations and specialized agencies to continue to carry out constructive dialogue and consultations for the enhancement of understanding and the promotion and protection of all human rights and fundamental freedoms, and encouraged non-governmental organizations to contribute actively to this endeavour.
2. The Commission invited States and all relevant United Nations human rights mechanisms and procedures to pay continued attention to the importance of mutual cooperation, understanding and dialogue.
3. The Commission requested the United Nations High Commissioner for Human Rights to submit a report on ways and means of enhancing cooperation in the field of human rights to the Commission at its fifty-seventh session.

I. INTERNATIONAL COOPERATION: PRINCIPLES

4. The concept of international cooperation in the field of human rights has been expressed in different ways. According to Article 1, paragraph 3, of the Charter of the United Nations, one of the purposes of the United Nations is "to achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction" Both the Charter (Articles 55 and 56) and Universal Declaration of Human Rights (preamble) emphasize that States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms. These principles have been further elaborated in the Declaration on Principles of International Law Concerning Friendly Relations and Cooperation among States in Accordance with the Charter of the United Nations (General Assembly resolution 2625 (XXV) of 24 October 1970).
5. The importance of such international cooperation has also been recognized in international human rights instruments. Notably, common article 1, paragraph 2, of the two International Covenants on Human Rights recalls the importance of obligations arising out of international cooperation. Article 2, paragraph 2, of the International Covenant on Economic, Social and Cultural Rights stresses that each State party "undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures". A similar provision is found in article 4 of the Convention on the Rights of the Child. The inter-State complaints mechanism under article 41 of the International Covenant on Civil and Political Rights and article 11 of the International Convention on the Elimination of All Forms of Racial Discrimination is also a potentially important means for cooperation in the field of human rights, as it provides a vehicle for States to seek resolution of human rights concerns.

6. Article 3, paragraph 3, of the Declaration on the Right to Development reaffirms the duty of States to cooperate "with each other in ensuring development and eliminating obstacles to development" and promoting "mutual interest and cooperation among all States". The Declaration provides guidance for realizing development and human rights in a complementary and comprehensive manner, and identifies international cooperation as a duty of the international community; in this framework, international cooperation should focus on the elimination of obstacles to development resulting from failure to observe civil, cultural, economic, political and social rights and the formulation of international development policies for ensuring development and eliminating obstacles thereto.

7. Enhanced international cooperation in the field of human rights for the full achievement of the purposes of the United Nations was further recognized in the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights in June 1993. In its resolution 48/141, which created the post of United Nations High Commissioner for Human Rights, the General Assembly requested the High Commissioner to enhance international cooperation in the field of human rights.

8. Recently, the General Assembly has addressed the duty of all members of the international community to cooperate for the promotion and protection of human rights in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (resolution 53/144 of 9 December 1998). The Declaration emphasizes "the important role of international cooperation for, and the valuable work of individuals, groups and associations in contributing to, the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals, including in relation to mass, flagrant or systematic violations" of human rights.

9. The Universal Declaration of Human Rights and the Vienna Declaration and Programme of Action have given unequivocal recognition to the principle of the universality, indivisibility, interdependence and interrelationship of all human rights.

10. The mandate of the United Nations High Commissioner for Human Rights also reaffirms the importance of universality, objectivity and non-selectivity in the consideration of human rights issues. Likewise, it has given expression to the international community's determination to treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis.

II. ENHANCING INTERNATIONAL COOPERATION

11. Today, all States have ratified at least one of the international human rights instruments. The great challenge now is to incorporate these human rights norms in national legislation, and above all to see them implemented in practice.

12. States parties to the international human rights treaties commit themselves to these obligations under the instruments to which they are parties and to submit timely periodic reports

to the relevant bodies on the implementation of those treaties. At the same time, these treaty bodies have encountered obstacles, such as a serious backlog of reports by States parties and delays in their consideration, and overdue reports.

13. Under the international decades proclaimed by the United Nations, international cooperation is of crucial importance. The International Decade of the World's Indigenous People envisages practical forms of international cooperation to protect the rights of indigenous populations. The establishment of the Permanent Forum on Indigenous Issues by the Economic and Social Council in its resolution 2000/22 of 28 July 2000 was a major development in this area.

14. Activities under the United Nations Decade for Human Rights Education (1995-2004) aim at reinforcing the universal culture of human rights, with emphasis on practical forms of training and on the training of trainers. Human rights education remains an important means for promoting international cooperation based on human rights norms and principles.

15. The establishment of the International Criminal Court is expected to reinforce the United Nations human rights machinery in this area and its effective functioning will depend on the substantive international cooperation.

16. Various activities to strengthen regional cooperation for the promotion and protection of human rights were proposed in the Vienna Declaration and Programme of Action. In response to those proposals, the Office of the High Commissioner has initiated the development of regional and subregional strategies for strengthening institutional capacities, addressing issues of concern within geographical areas and facilitating the exchange of best practices among the countries involved.

17. Among a variety of regional and subregional activities, the following are particularly relevant initiatives undertaken in recent years (see Report of the Secretary-General on regional arrangements for the promotion and protection of human rights (A/55/279)):

(a) In Central Africa, a subregional centre for human rights had been established in Yaoundé by the end of 2000;

(b) In Asia and the Pacific, during the last two years, annual workshops on regional cooperation for the promotion and protection of human rights in Asia and the Pacific were organized in New Delhi (in 1999) and Beijing (in 2000). Through those and previous workshops (in particular the workshop held in Tehran in 1998), a consensus has been reached on the components of a Framework for Regional Technical Cooperation for the Asia-Pacific Region. The Framework has been designed to develop, *inter alia*: (a) national plans of action for the promotion and protection of human rights and the strengthening of national capacities; (b) human rights education; (c) national institutions for the promotion and protection of human rights; and (d) strategies for the realization of the right to development and economic, social and cultural rights;

(c) In Europe and Central Asia, the Office of the High Commissioner has continued its cooperation with regional organizations, including the Council of Europe, the Organization for Security and Cooperation in Europe and the European Union. One of the Office's priorities has been the development of a regional strategy against trafficking in human beings;

(d) Following consultations with Member States and national, subregional and regional institutions and experts in the field of human rights from Latin America and the Caribbean, the Office of the High Commissioner organized at Quito from 29 November to 1 December 1999 a regional workshop that adopted the Quito Framework for Technical Cooperation in the Field of Human Rights. Participants in the workshop represented Governments, national human rights institutions, networks of non-governmental organizations, United Nations agencies and regional institutions. The Quito Framework has served as a basis for the regional strategy of the Office of the High Commissioner in that region.



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PROMOTION AND PROTECTION OF HUMAN RIGHTS

**Note submitted by Mr. Miguel Alfonso Martínez, Special Rapporteur appointed
by the Sub-Commission on the Promotion and Protection of Human Rights to
undertake the study requested by the Commission in resolution 2000/63 on
human rights and human responsibilities**

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INTRODUCTION

1. In resolution 2000/63 of 26 April 2000, the Commission on Human Rights requested the Sub-Commission on the Promotion and Protection of Human Rights to undertake "a study on the issue of human rights and human responsibilities" and to submit an interim study to the Commission at its fifty-seventh session and a complete study at its fifty-eighth session (paragraph 2). It also decided to continue its consideration of that question at its fifty-seventh session under the same agenda item (paragraph 3).
2. The Commission approved that resolution after a relatively brief but substantive debate on its content.¹
3. During that debate, various Member States that would later vote against the text that was finally adopted² justified their opposition thereto on the grounds that the Commission should not take decisions on human responsibilities with regard to human rights, since it was the domestic law of each State that governed the relationship between the individual and the State.³ Another delegation, although it voted against the draft resolution referred to, explained its vote *inter alia* by stating that the individual's duty to the community had been "clearly set out" in paragraph 1 of article 29 of the Universal Declaration of Human Rights.⁴
4. The sponsors of the draft resolution emphasized, for their part, the fact that none of the delegations participating in the debate had contested the importance of the issue of human rights and human responsibilities. They further stressed that the concept of human responsibilities was intended to supplement rather than replace the responsibilities of Governments.⁵

I. CONSIDERATION OF DECISION 2000/111 ADOPTED BY THE SUB-COMMISSION

5. The Sub-Commission gave immediate and considerable attention to the important request made by its higher authority. No sooner had work started at its fifth-second session (July and August 2000) than several expert members started to consult their colleagues with a view to determining the most feasible and appropriate means of fulfilling the Commission's request.
6. Three points were especially relevant in those consultations. The first was the signal importance and complexity of the issue to be examined in the study, brought to light by the far-reaching discussions it had prompted in various United Nations bodies, and the wide range of points of view expressed in those discussions, of which the debate at the fifty-sixth session of the Commission itself was merely the most recent example.
7. The second point, which was a corollary to the first, concerned the need to carry out the study with the requisite honesty and depth; these are traditional hallmarks of the Sub-Commission's intellectual output, as has been acknowledged on many occasions by the Commission itself and by other bodies of the United Nations system. It is practically impossible to overlook the imperative need to conduct extensive and diligent research of the literature on the subject.

8. Last but not least, the Sub-Commission could hardly fail to note the especially narrow time-frame it had been given to fulfil the Commission's request strictu sensu.
9. It should be borne in mind that, at the initiative of the Commission itself⁶ and starting in the year 2000, the time made available to the Sub-Commission for its annual session has been substantially reduced (by 25 per cent), the session now being limited to three weeks. In addition, in 2000 the Sub-Commission had a heavy workload initially planned in August 1999, i.e., before the Economic and Social Council had adopted the formal decision drastically to cut back its working time (on the basis of the Commission's recommendation of April 2000) and before the Commission requested it to undertake the study in resolution 2000/63 of April 2000.
10. By asking the Sub-Commission to submit an interim study at its fifty-seventh session (to be held in March and April 2001) on this complex issue, the Commission left the Sub-Commission with only one possibility: to discuss and take fundamental decisions on the matter and to outline and write the report during the Sub-Commission's fifty-second session, which was to be held and indeed took place in August 2000.
11. In other words, if the Sub-Commission was scrupulously to fulfil the Commission's request, last August it would have had no choice but to:
- (a) Analyse and take an urgent decision on the best practical method for approaching an issue whose multiple aspects were, and still are, too obvious to ignore;
 - (b) Conduct an in-depth debate on the issue with a view to establishing the context or general content of the study to be carried out;
 - (c) Draft general and specific guidelines on the possible content of an initial draft of the preliminary report to be submitted to the Commission in time for the session in March or April of 2001;
 - (d) Select one (or more) of its members to write the initial draft or to write it collectively by sections;
 - (e) Discuss and decide on the structure and final content of the draft initial report thus written, with a view to submitting it for consideration to its higher authority.
12. For all of the above, the Sub-Commission would in all have had only one working session (perhaps one and a half sessions) during the third and final week of its deliberations, during which item 12 of the previous year's agenda would be discussed.
13. Obviously the short time made available to the Sub-Commission to fulfil the exact request of its higher authority made it absolutely unthinkable for it to endeavour to carry out any form of research into the extensive literature on the issue.
14. The consultations carried out during the first week of the Sub-Commission's deliberations in August provided, from the outset and on an obvious consensus basis, a solution with regard to the most appropriate method for fulfilling the Commission's request.

15. In keeping with the Sub-Commission's established methods and the output traditionally obtained, the best means of adequately fulfilling the request was to confer responsibility for it on an individual member who would be appointed to draft the requested study.⁷

16. It was obvious from the outset that an endeavour of that kind could not be successfully concluded by means of collective discussions and drafting by all the Sub-Commission's members in plenary. It should be added that it would have been illusory, given the shortage of time, to entrust that task to a session working group in order to expedite the work.

17. In the light of that observation, and also as a result of the consultations, it was abundantly clear that the Sub-Commission should not feel bound by any pre-established formula with regard to the specific working method to be followed to fulfil the request.

18. With regard to that crucial aspect, in paragraph 2 of resolution 2000/63, the Commission had obviously and wisely abstained from recommending any method to the Sub-Commission. In addition, the Commission's deliberations had clearly revealed that both the sponsors of the approved text and the delegations that had voted against it were fully aware that in asking for the study the Commission had not instructed the Sub-Commission to follow a predetermined method.⁸

19. In fact, the appointment of a special rapporteur was unquestionably, given the Commission's and the Sub-Commission's past and present experience of that approach, the only means of ensuring that the extensive and diligent research inevitably required by this kind of study would be carried out.

20. The Sub-Commission therefore felt entirely free to choose the method, and in decision 2000/111 decided to appoint one of its titular experts as special rapporteur in charge of conducting the study requested.

21. It must be emphasized that the Sub-Commission adopted the decision by a roll-call vote and a broad majority (14 votes in favour, 4 against and 5 abstentions).⁹ It did so in full awareness that all the members of the Sub-Commission taking part in the vote agreed that it was necessary to start the process of appointing only one special rapporteur to carry out the study, this and no other being the best method of appropriately and scrupulously carrying out the request from the higher authority.

22. That, of course, was the opinion of all those who sponsored and/or voted in favour of decision 2000/111. It was also, however, the view of the experts who, although they had sponsored another text that was not approved,¹⁰ were headed in the same direction (although they proposed to appoint another expert as the future rapporteur). That, lastly, was also the initial position of the French expert, Mr. Joinet, co-sponsor and driving force behind the alternative text, L.5 (although he would later be the author of the only amendment submitted, and also rejected,¹¹ to the text adopted by the Sub-Commission as decision 2000/111).

23. When it chose this method, which, to its mind, offered the best guarantee of technical quality for the study and of reliability with regard to the focus, conclusions and recommendations, the Sub-Commission was fully aware that it was not empowered to appoint and put to work, by and of itself, a special rapporteur.
24. Such a step necessarily requires the authorization of higher authorities, i.e. the Commission on Human Rights and the Economic and Social Council.
25. Not even in cases in which the Commission asks the Sub-Commission to carry out a specific task - like the present one - can the Sub-Commission break with procedure and overstep its authority by asking a special rapporteur to start work in that capacity without consent from above.
26. The most that the Sub-Commission can do in such a case is to inform the immediate higher authority of its decision to appoint one (or even, exceptionally, more than one) of its members as special rapporteur to carry out the study, ask it to endorse that decision and wait for the decisions of the Commission and the Council respectively with regard to the procedure undertaken to authorize the appointed person to start his work as special rapporteur.
27. This is exactly what the Sub-Commission did in its decision 2000/111, exercising its unquestionable right to do so.
28. For this reason, the final part of the decision requests the Commission to recommend that the Economic and Social Council explicitly authorize the special rapporteur - appointed in that decision - to undertake the study half way through 2001 with a view to submitting a preliminary report to the fifty-eighth session of the Commission in 2002 and a final report to the fifty-ninth session in 2003.
29. It must be pointed out that the Sub-Commission was aware that the method it had chosen, together with the rules governing the start of the duties of an appointed special rapporteur, meant that the special rapporteur would be completely unable to submit the preliminary report to the Commission at its upcoming fifty-seventh session.
30. This is dictated by the order in which the sessions of all three United Nations bodies are held. The Sub-Commission (which meets in August) cannot address the Council directly; it is obliged to forward matters requiring the Council's approval via the Commission (whose annual session takes place in March and April). It is during the forthcoming fifty-seventh session that the Commission will have the opportunity to decide, as it feels best, on the contents of decision 2000/111 of the Sub-Commission, and in particular whether it should recommend that the Council authorize the undertaking of the study, as the Sub-Commission asks it to do in the decision. In addition, should the Commission accede to that request and make that recommendation to the Council, the Council will not be able to take any decision in that respect until its meeting in July of this year.
31. Faced with the choice between, on the one hand, a method not involving a rapporteur and enabling the preliminary report to be submitted to the Commission in 2001 but not, to its way of thinking, providing adequate guarantees (in an extremely limited timeframe) of scholarly

diligence or in-depth analysis of the issue and, on the other hand, a method it considered the most appropriate (the rapporteur) and the scrupulous application of established procedure for special rapporteurs to start work (although this would imply postponing the reports to be submitted to the Commission by one year), the Sub-Commission decided, unequivocally and as was to be expected, in favour of the method it considered most conducive to a high standard of work.

32. That decision was (and is) in total agreement with the expectations the Commission has traditionally had of its subordinate body as a think-tank, in particular in this new phase of its work, recently launched with decision 2000/109, Enhancing the effectiveness of the mechanisms of the Commission on Human Rights.

33. As can be gathered, the Special Rapporteur appointed by the Sub-Commission agrees fully with that decision and voted for it in the Sub-Commission. He trusts that the Commission will understand the reasons prompting the Sub-Commission to organize its future work on this sensitive and crucial issue along the lines of decision 2000/111 and the recommendation it contains, and that, as a result, it will request the Council to authorize the study to be undertaken.

34. The Special Rapporteur wishes to express his confidence that the Commission will discuss the matter and take decisions on it exclusively on the basis of its resolution 2000/63 on the matter, of the importance and topicality of the material to be studied, and of the need to ensure the greatest possible technical accuracy in the drafting of the study requested by the Sub-Commission.

II. INITIAL OUTLINE OF THE STUDY REQUESTED BY THE COMMISSION IN RESOLUTION 2000/63

35. As the appointed Special Rapporteur, and for the reasons given above, the Rapporteur is convinced that it would be inappropriate to submit the preliminary report initially requested by the Commission this year. For the same reason, he will abstain for the time being from discussing matters of substance with regard to an issue that, moreover, has not to date been the subject of significant research.

36. Nevertheless, and with the declared intention of acting in an absolutely forthright manner towards the Commission and the Sub-Commission, he considers it would be useful to raise a number of operational and practical (and even conceptual) points, should the Commission and the Council honour him by authorizing him to undertake the study. Those points can and should be considered an initial outline of the possible contents of the preliminary report. They are listed below.

37. In the first place, and in spite of the fact that he is not obliged to do so by the terms of the text of decision 2000/111 of the Sub-Commission, the appointed Special Rapporteur proposes to submit for formal consideration by his colleagues on the Sub-Commission, at the forthcoming session to be held in August 2001, the results of the research done up until that time; he will start on that task as soon as the Council authorizes him to undertake the study. He proposes thereby

to sound out, as objectively and broadly as possible, the opinions and suggestions his colleagues have to offer on the possible structure and contents of the preliminary report he must submit to the Commission in March or April 2002, and to take account of their contributions as far as possible.

38. Secondly, it is to be expected that both the preparatory work on article 28 and paragraph 1 of article 29 of the Universal Declaration of Human Rights and on the final paragraph of the common preamble to the two International Covenants on Human Rights and the very useful study of the material carried out almost 20 years ago by his colleague on the Sub-Commission, Dr. Erica Irene Daes,¹² will constitute the basic starting points for the research to be carried out for the study.

39. Thirdly, it would be logical to assume that crucial importance should be given to the work carried out on the issue and on related matters by international intergovernmental organizations - both of the United Nations system (such as ILO, WTO, the World Bank, UNESCO and WIPO) and outside it (for example, the OAS, the OAU, the European Union and the OECD) - and non-governmental organizations (for example, the Inter-Action Council, the Lawyers Committee for Human Rights, the International Commission of Jurists and the American Association of Jurists), and to the documents drawn up by some of them,¹³ the views of a number of governments,¹⁴ and the relevant opinions of distinguished international experts.¹⁵ A questionnaire will be drawn up and circulated among the Governments of United Nations Member States and the governmental and non-governmental organizations with a view to obtaining their up-to-date ideas on the issue.

40. Fourthly, the study requested by the Commission should explore and propose replies to the following questions inter alia:

41. How did the drafters of the Universal Declaration of Human Rights and the International Covenants understand "responsibilities" and "duties" in terms of the individual's relationship with other individuals and with the community/society to which he belongs, those concepts being included in all three of those basic human rights instruments?

42. In that context, what distinction can be made with the "obligations", "responsibilities" and "duties" of all people towards the society/community in which they live?

43. Are the approximate definitions provided in those key instruments several decades ago still valid at present?

44. If so, what tangible action can and should reasonably be expected of any individual, either as part of a Government or as a simple individual, entity or institution outside it, to fulfil those duties and/or responsibilities in this "post-modern", unipolar (in geopolitical and strategic terms) and globalized (under the leaders of new economic liberalism) world of today; a world characterized, moreover, by a wide range of degrees of development, cultures and domestic legislation?

45. If, as has repeatedly been acknowledged by the United Nations human rights treaty bodies, the States bear ultimate responsibility for ensuring full promotion, complete implementation and effective protection of human rights, in what way will the recent trend in international relations towards a maximum decrease (or even elimination) of State sovereignty and State duties and hence of the true effective capacity of States to fulfil human rights undermine those crucial obligations and responsibilities?

46. How is the inevitable interrelation between government and non-governmental circles to be characterized in terms of cooperation or confrontation, and how can, on the one hand, the obligations of States under domestic legislation and international treaty-based commitments and their responsibilities in terms of human rights dovetail in practical terms with, on the other hand, the possible responsibilities and duties in that same field of all persons subject to the State's jurisdiction?

47. Lastly, if in that context the contents of article 28 and paragraph 1 of article 29 of the Universal Declaration of Human Rights and the final paragraph of the preamble to the two International Human Rights Covenants were enforced today, what would be the specific duties and responsibilities, of the non-governmental sphere to contribute to the following goals:

(a) To bring about complete implementation and unrestricted respect for the aims and principles of the United Nations Charter;

(b) To achieve, both at the internal institutional level and internationally, true universality of all human rights; this means for all persons in all societies, without discrimination and in conditions of equity; not only in the abstract - the letter of the law - but also in true conditions of effective exercise of those rights in practice;

(c) To promote effective recognition of the interrelationship, interdependence and equal importance of all of them;

(d) Successfully to counteract the detrimental effects on implementation of human rights resulting or possibly resulting from the present uncontrollable process of globalization, with its inevitable privatization of public enterprises, extreme "liberalization" of international trade, consequent increase (in an apparently never-ending spiral) of external debt, and the familiar "structural adjustments" limiting each country's sovereign decisions in every sense? Everything points to those unavoidable characteristics of that particular kind of globalization not only depriving the State, especially the underdeveloped States of the south, of the resources without which they cannot implement the economic, social and cultural rights of their citizens, but also fomenting corruption and ungovernability, in that they limit (or prevent) full citizen participation in public management, thereby generating ineffective State institutions and gradually discrediting democracy. They thereby also to a great extent help undermine civil and political rights;

(e) To establish the increasingly necessary restrictions on the activities of certain non-State sectors currently acting as they please within the international framework (in particular, transnational companies), with a view to making them meet the national and international standards ensuring the protection of the basic rights, including human rights, of the most vulnerable sectors, in particular local workers, indigenous peoples, national or ethnic minorities and migrant workers;

(f) To eliminate all factors presently working to undermine the credibility of United Nations action in the humanitarian field (undoubtedly the most noble of the world organization's task), in particular by fighting to overcome the political manipulation to which those rights are subject in international forums and to obtain total observation of the principles of objectivity, impartiality and non-selectivity in that field.

Notes

¹ See the summary record of the sixty-fifth session, E/CN.4/2000/SR.65, paras. 80 to 96.

² Draft resolution E/CN.4/2000/L.78, which had 24 sponsors.

³ On that point, see the statements of the representatives of the United States of America (*ibid.*, para. 88) and Guatemala (para. 89). The representative of Portugal, speaking on behalf of the European Union, shared their point of view (para. 93).

⁴ See the statement by the representative of Canada (*ibid.*, para. 86). In its statement opposing the text, the delegation of Portugal, again speaking on behalf of the European Union, held the same point of view (para. 94).

⁵ See the statement by the representative of Pakistan (*ibid.*, para. 91).

⁶ Decision 2000/109 of 26 April 2000.

⁷ As will be seen subsequently, as a result of those consultations, held on the first day of the second week of the Sub-Commission's fifty-second session, two draft resolutions were formally submitted on the matter (E/CN.4/Sub.2/2000/L.4 and L.5). Both ruled out the possibility of collective drafting - in plenary - of the study requested and took the first step toward the appointment of one of the members as Special Rapporteur on the issue (although they diverged as to who of the Sub-Commission's 26 members would be responsible for drafting the reports requested by the Commission for its consideration). See also the amended oral text submitted by the French expert, Mr. Joinet, of draft resolution L.4 (E/CN.4/Sub.2/2000/L.10/Add.1, para. 7), aimed at having both of the experts mentioned in the drafts appointed as Co-Special Rapporteurs to draw up the study jointly. That amendment was rejected by a roll-call vote, 12 votes to 8, with 3* abstentions (*ibid.*, para. 8).

* Translator's note: See English version: the figures tally.

⁸ See the statements by the representatives of Pakistan (E/CN.4/2000/SR.65, para. 91) and Japan (*ibid.*, para. 90).

⁹ Draft decision E/CN.4/Sub.2/2000/L.4, sponsored by 13 of the Sub-Commission's 26 experts, was approved without amendment by 14 votes to 4, with 5 abstentions, as decision 2000/111. The list of sponsors is contained in E/CN.4/Sub.2/2000/L.10/Add.1, paragraph 5, and the results of the roll-call vote in paragraph 10 of the same document.

¹⁰ The text of draft decision E/CN.4/Sub.2/2000/L.5 and the list of sponsors are contained in E/CN.4/Sub.2/2000/L.10/Add.1 (para. 12). The results of the roll-call vote in which it was defeated (6 votes for, 12 against and 5 abstentions) are also contained in that document (para. 13).

¹¹ As mentioned above, the text of the amendment submitted by Mr. Joinet is contained in E/CN.4/Sub.2/2000/L.10/Add.1 (para. 7).

¹² The individual's duties to the community and the limitations on human rights and freedoms under article 29 of the Universal Declaration of Human Rights. New York, United Nations, 1983.

¹³ For example, the American Declaration of the Rights and Duties of Man, adopted in 1948 at the Ninth International American Conference, the Universal Declaration of Human Responsibilities, drafted in 1997 by the Inter-Action Council under the chairmanship of Helmut Schmidt, former Chancellor of the Federal Republic of Germany, the Declaration on the Responsibilities of Present Generations Towards Future Generations, approved the same year by the UNESCO General Conference, and the 1998 Cape Town Commitment adopted by the International Commission of Jurists.

¹⁴ Inter alia, those presented by the delegation of Egypt to the fifty-fifth and fifty-sixth sessions of the Commission on Human Rights during the process that resulted in the adoption of resolution 2000/63, and those on "Human Security" drawn up as of 1988 by the Foreign Affairs Ministries of Canada and Norway on the basis of the Lyndoen Declaration.

¹⁵ The contributions inter alia of Bertrand Ramcharan, Pierre Sané, Theo van Boven, Noam Chomsky, Marco Sassoli, Ignacio Ramonet, Christian de Brie, John Gray, R.L. Grossman, Fr. Adam, Mario Bettati, Robert Reich, Yash Ghai, Richard Goldstone and Andrew Clapham.



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EFFECTIVE FUNCTIONING OF HUMAN RIGHTS MECHANISMS

NATIONAL INSTITUTIONS AND REGIONAL ARRANGEMENTS

**Regional arrangements for the promotion and
protection of human rights**

**Report of the Secretary-General prepared in accordance
with paragraph 14 of Commission on Human Rights
Resolution 1999/71**

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provides the human rights component for complex United Nations peace-keeping, peace-making and peace-building missions, such as those in Angola, Sierra Leone, Liberia, the Central African Republic, Ethiopia and Eritrea.

7. The African system for the promotion and protection of human rights is based on the African Charter on Human and Peoples' Rights, which came into force in 1986. Under that Charter, the African Commission on Human and Peoples' Rights has the lead mandate to address human rights issues from a regional perspective. However, its limited resources have been an obstacle to its effective functioning.

8. In recognition of the vital and unique role that this regional mechanism should play in the protection and promotion of human rights in Africa, OHCHR has provided ongoing technical assistance to the African Commission since 1986. Initially this assistance consisted of familiarizing the Commission's staff with the functioning of United Nations human rights machinery and advising the Commission on developing a programme of human rights activities. The current objective of the project is to strengthen the capacities of the African human rights system, including its Court. The long-term objective of the project is to contribute to increased awareness of human rights throughout Africa.

9. During the first African Ministerial Conference on Human Rights, held in Mauritius in April 1999, the High Commissioner for Human Rights announced a new regional approach for the protection and promotion of human rights in Africa. The High Commissioner reiterated her commitment to this approach at the Summit of the Organization of African Unity (OAU) in Lomé (Togo) in July 2000.

10. The main objectives of the new regional and subregional approach are to introduce a human rights dimension to the prevention, management and resolution of subregional and internal conflicts; to integrate human rights into all activities of the subregional organizations; to support subregional institutions for the promotion and protection of human rights through the deployment of human rights regional experts; to raise awareness about human rights through information campaigns and new information technologies; to strengthen national capacities through the development of framework subregional plans of action for the protection and promotion of human rights; and to establish operational mechanisms for early warning and emergency response.

11. In pursuit of these objectives, cooperation has been enhanced with OAU, and a subregional project for Southern Africa has been implemented. Subregional strategies for Central Africa, the Great Lakes Region and West Africa have been developed. Their implementation commenced in 2000. Subregional strategies for North and East Africa are in preparation. Cooperation is being strengthened with the Organisation internationale de la francophonie (OIF) and the Community of Portuguese-speaking Countries (CPLP) in Africa. OHCHR was represented at the International Symposium on Democracy and Human Rights organized by OIF in Bamako (Mali) in October 2000 and is assisting CPLP to organize a subregional seminar on national plans of action in the field of human rights.

12. The Arab Regional Seminar on Human Development and Human Rights, co-organized by the Arab Organization for Human Rights, UNDP and OHCHR in June 1999, led to the adoption of the Cairo Plan of Action. A two-year project designed to support the realization of the Cairo Plan of Action, in cooperation with UNDP, has now been finalized and its implementation is due to start in February 2001. Special attention will be given to strengthening Arab NGO cooperation and joint action on different dimensions of human rights work, such as research, information sharing and preparation of materials. OHCHR will continue to assist the Arab Institute for Human Rights, based in Tunis, to enhance the competencies of Arab NGOs through training courses for human rights trainers on the human rights of refugees, international humanitarian law, administrative and financial management, and the use of modern technology in the field of documentation and information; through strengthening media awareness of human rights issues; introducing human rights values into school and university curricula; and supporting studies and programmes on women's and children's rights. The Human Rights Documentation, Information and Training Centre was inaugurated by the High Commissioner in Rabat, Morocco, in April 2000. This tripartite project, supported by OHCHR, UNDP and the Government of Morocco, has become operational at a crucial moment in the democratization process taking place in the country. It is aimed at promoting a culture of human rights at all levels of Moroccan civil society and at providing target groups such as the judiciary, the police, the education sector (universities and schools), the media, and human rights, women's and children's NGOs with adequate support, according to the needs expressed.
13. The subregional project for Central Africa will contribute to strengthening the capacity of the Economic Community of Central African States (ECCAS) to make human rights a core activity and to develop a subregional plan of action in the field of human rights. A subregional centre for human rights and democracy will become operational in Yaoundé at the beginning of 2001. In this respect, a joint OHCHR/DPA needs assessment mission took place in June 2000 and a regional adviser was deployed to Yaoundé in September 2000, in line with the international community's request to utilize available regional and national expertise for technical assistance and advice in the field of human rights. A subregional workshop on national action plans for Central African countries is planned in Yaoundé in 2001. Consultations, training activities and documentation will be provided to partners at the subregional level. OHCHR will also contribute to human rights work of partners within and outside the United Nations family active in this sub-region.
14. The OHCHR Regional Adviser in Yaoundé will assist in the human rights activities in the subregion, *inter alia*, strengthening the national human rights commissions in Cameroon, Central African Republic and Chad; supporting the development of national human rights plans of action in Cameroon, the Republic of the Congo, the Central African Republic and Chad; enhancing cooperation with NGOs; facilitating training for public, security and military officials; and providing human rights documentation.
15. The subregional project for West Africa will contribute to strengthening of the capacity of the Economic Community of West African States (ECOWAS) to integrate human rights into all activities and will facilitate the organization and development of a subregional action plan with a special focus on vulnerable groups and on conflict prevention. A subregional workshop on national action plans in the field of human rights for West African countries will be organized in Banjul, Gambia in early 2001. A meeting to discuss the implementation of the OHCHR

subregional strategy is planned to be held in Abuja at the beginning of 2001. The regional adviser to be deployed in Abuja will assist activities in Guinea Bissau, Liberia, Mauritania and Niger. These activities include the establishment of a national human rights commission in Guinea Bissau, strengthening the National Institution on Human Rights, Poverty and Rehabilitation in Mauritania and the National Human Rights Commission in Niger; supporting the implementation of a national plan of action in Guinea Bissau and the development of national human rights plans of action in Mauritania and Niger; enhancing cooperation with NGOs; and training activities for army, police and law-enforcement officers, as well as for the media and for former combatants.

16. In the Southern Africa region, several countries have requested technical assistance from OHCHR. To maximize the impact of its involvement in the subregion, OHCHR is increasing the expertise and assistance it is providing to the Southern African Development Community (SADC) to establish a "human rights sector". The process started with the SADC Human Rights Conference, held in Mozambique in February 1994, and the Workshop on Democracy, Peace and Security, held in Namibia in July 1994. In June 1996, the SADC Organ on Politics, Defence and Security was established, based on "the observance of human rights, democracy and the rule of law". Among its objectives are promoting and enhancing the development of democratic institutions, encouraging the ratification of human rights treaties and preventing conflict in the region through an early warning system.

17. With regard to subregional training activities, a human rights training course for senior command and staff officers from the Southern African Regional Police Chiefs Cooperation Organization (SARPPCO) was organized in Gaborone in February 2000. It followed a regional training course organized for national police trainers in Gaborone in 1999. OHCHR is currently implementing a project jointly with UNDP (its main partner throughout Africa), aimed at strengthening United Nations capacity in southern Africa to respond to Governments' requests for assistance on human rights, democracy and rule of law issues. A regional programme adviser, based in Pretoria, is coordinating and consulting closely with Resident Coordinators in Southern Africa to facilitate the formulation, monitoring and evaluation of human rights, democracy and rule of law projects and activities and to provide required support and advice, upon request, to Governments and the SADC. The regional office also provides assistance to United Nations agencies on the integration of human rights into United Nations programming and is facilitating an exchange of experience between national institutions in the subregion.

18. Within the framework of the preparation of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, which will be held in Durban, South Africa, from 31 August to 7 September 2001, the Preparatory Committee for the World Conference at its first session in Geneva in May 2000, invited the High Commissioner for Human Rights, acting in her capacity as Secretary-General of the World Conference, to draw up a draft declaration and a draft programme of action on the basis, *inter alia*, of regional preparatory meetings and regional seminars. One of the regional expert seminars was held, under the overarching theme "Trends, priorities and obstacles in combating racism and racial discrimination, xenophobia and related intolerance", on the topic of "Prevention of ethnic and racial conflicts" in Addis Ababa, Ethiopia, from 4 to 6 October 2000. The regional intergovernmental meeting for the Group of African States, held from 22 to 24 January 2001 in

Dakar, Senegal, took into account national preparations for the World Conference in individual States, as well as the particularities of racism, racial discrimination, xenophobia and related intolerance in the subregions.

B. Europe

1. Cooperation with the Council of Europe, the Organization for Security and Co-operation in Europe and the European Union

19. In Europe and Central Asia, OHCHR continues to cooperate with European institutions, including the Council of Europe, the Organization for Security and Co-operation in Europe (OSCE) and the European Union (EU). One of the main areas of focus has been the development of a regional strategy against trafficking in human beings, particularly for the purposes of prostitution. OHCHR works closely with the Council of Europe and the OSCE in the Gender Task Force and the Trafficking Task Force of the Stability Pact for South Eastern Europe. The three OHCHR country offices in southeastern Europe - in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia - have initiated a subregional strategy on trafficking to strengthen these inter-agency initiatives.

20. OHCHR regularly consults with the European regional organizations at all levels and in different country contexts. Informal inter-agency consultations have taken place on issues of concern, including the situations in Chechnya (Russian Federation) and Kosovo (Federal Republic of Yugoslavia). During 2000, the High Commissioner also engaged in consultations with the Council of Europe's Commissioner for Human Rights, Mr. Gil-Robles. OHCHR participated in the First Council of Europe Round Table with national human rights institutions held in Strasbourg on 16 and 17 March 2000. With OSCE, OHCHR jointly operates the Human Rights Office in Abkhazia (Georgia), which is part of the United Nations Observer Mission in Georgia (UNOMIG). The Human Rights Office monitors developments in the region and conducts training and workshops as part of the OHCHR technical cooperation project in Georgia. OHCHR consulted with the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) on developing legal frameworks for national human rights institutions in Central Asia and protecting women's human rights in Montenegro and Kosovo (Federal Republic of Yugoslavia). In April and November 2000, OHCHR sent specialists to Albania to assist the OSCE mission in including a gender component in its training programme for national police. OHCHR cooperates with OSCE on its human rights work conducted in the context of the United Nations Interim Administration in Kosovo (UNMIK). In December 2000, an inter-agency meeting at the Council of Europe in Strasbourg brought together United Nations and European partners to discuss the coordination of programmes in the Federal Republic of Yugoslavia in the wake of dramatic changes in that country.

21. The High Commissioner for Human Rights visited the European Commission secretariat in Brussels on 1 February 2000, as well as the EU Parliament, and several meetings took place between OHCHR and the EU during the year. The EU Commission has committed substantial funds for OHCHR activities and additional projects were submitted by OHCHR to the EU secretariat for consideration in 2000, including in support of the World Conference against Racism in 2001 and its preparatory process. The EU also works with OHCHR, the Council of

Europe and OSCE in a quadripartite approach to human rights training for international field missions. In this context a joint mission to assess training needs took place in Kosovo (Federal Republic of Yugoslavia) in June 2000.

2. Preparations for the World Conference against Racism

22. In connection with the World Conference against Racism, to be held in Durban, South Africa from 31 August to 7 September 2001, OHCHR convened a seminar of experts on "Protection of minorities and other vulnerable groups and the strengthening of human rights capacity at the national level" for Central and Eastern European countries, from 5 to 7 July 2000 in Warsaw. Experts attending the seminar exchanged views on "best practices" and action-oriented strategies for dealing with racism in the region. A meeting of European and Central Asian NGOs took place in Warsaw from 15 to 18 September 2000, as part of the preparatory process for the World Conference against Racism. On 11 October 2000 the High Commissioner delivered a keynote address at the European Conference Against Racism at the Council of Europe in Strasbourg, entitled "All different, all equal: from principle to practice".

C. Latin America and the Caribbean

Cooperation with the Inter-American system

23. OHCHR is engaged in dialogue with the Organization of American States (OAS) on enhancing mutual cooperation in the Latin American and Caribbean region. The Inter-American Commission on Human Rights, and the Inter-American Court of Human Rights have been the two institutions of the OAS with which OHCHR has had the most collaboration in recent years. Dialogue has also been established with the Inter-American Commission on Women (CIM) to identify areas for cooperation on specific projects.

24. OHCHR has been cooperating with several inter-American institutions in the elaboration and implementation of regional projects aimed at promoting and protecting human rights. Preliminary discussions were held in 1998 with two such institutions, the Inter-American Institute for Human Rights (IIDH) and the United Nations Latin American Institute for Crime Prevention and the Treatment of Offenders (ILANUD).

25. OHCHR activities in the Latin American and Caribbean region in past years have involved providing training on reporting obligations to Spanish-speaking and English-speaking member States of the region. (Recently, courses were organized in Guyana in 1999 for English-speaking countries and in the Dominican Republic in 2000 for Spanish-speaking countries.) These training activities were carried out in collaboration with United Nations agencies.

26. OHCHR has also implemented several initiatives in Central America and in the Andean region focusing on the development of a judicial network, training activities for officials (judges, lawyers, prosecutors, police and penitentiary personnel) in the administration of justice, and the development of training methodologies. The activities were carried out in cooperation with the

Latin American Institute for Crime Prevention and the Treatment of Offenders (ILANUD) and with the Andean Commission of Jurists, with which OHCHR signed a memorandum of understanding in 1998.

27. Following consultations with Member States, national, subregional and regional institutions, and experts in the field of human rights from the region, OHCHR organized an intergovernmental workshop in Quito, from 29 November to 1 December 1999, to discuss and adopt a regional framework for technical cooperation in the field of human rights. Participants in the workshop, in addition to Governments, were representatives of national institutions, networks of regional NGOs, United Nations agencies and regional institutions.

28. At the end of the workshop, Governments of the Latin American and Caribbean region adopted the Quito Regional Framework for Technical Cooperation. The framework is the basis for the OHCHR regional strategy in offering technical cooperation to member States of the region. It also constitutes the reference for cooperation with United Nations agencies, funds and programmes, and other international and regional institutions, both public and private, operating in the region.

29. The long-term objective of the Quito Framework is to contribute to the development and strengthening of national capacities for the promotion of human rights in Latin America and the Caribbean, to be a means of facilitating the development and implementation of national human rights action plans and to contribute to promoting the ratification of the international human rights instruments, with a view to ensuring the enjoyment of human rights by all segments of society in Latin America and the Caribbean.

30. The five areas which constitute the pillars of the framework are:

- (i) National plans of action for the promotion and protection of human rights, aimed at strengthening national capacities in order to develop, implement and evaluate national plans for the promotion and protection of human rights;
- (ii) Human rights education, aimed at strengthening national capacities to develop, implement and evaluate national plans of action and other activities for human rights education;
- (iii) National institutions, aimed at strengthening the capacities of national human rights institutions, including their capacity to promote and protect all human rights and incorporate a gender perspective;
- (iv) Strategies for the realization of the right to development and economic, social and cultural rights, aimed at identifying obstacles to the realization of the right to development and economic, social and cultural rights in the regional or subregional context and strengthening national and regional capacities for the promotion and realization of those rights;

- (v) Promotion of the rights of women, children and other vulnerable groups, aimed at identifying obstacles to the realization of the rights of women and other vulnerable groups in the regional context and strengthening national and regional capacities for the promotion and realization of those rights.

31. The Latin American and Caribbean regional framework will enhance cooperation with partners. In this connection, OHCHR has signed a memorandum of intent with the Economic Commission for Latin America and the Caribbean which calls for cooperation in the implementation of the Framework. The Andean Commission of Jurists and ILANUD are again executing partners for the implementation of technical cooperation projects at the regional and subregional levels.

32. In planning and implementing all technical cooperation activities in the region, in addition to consulting with Governments and civil society, OHCHR will rely on the cooperation already established with United Nations partners, IIDH and other regional institutions.

33. OHCHR has also established relations with the Caribbean Ombudsman Association and supported its work and participation in various forums throughout 2000. OHCHR supported the 2nd Annual Meeting of National Institutions of the Americas and the Caribbean, held in Mexico City from 19 to 21 November 2000. The meeting established a Regional Network of National Institutions and provided input relating to the regional preparatory meeting for the World Conference and to indigenous peoples. The Fifth Annual Meeting of the Iberoamerican Federation of Ombudsmen, also held in Mexico City, from 21 to 24 November 2000, was supported by OHCHR and its regional partners and discussed issues not only relevant to the World Conference but also other human rights concerns.

34. OHCHR, in collaboration with the Government of Chile, organized the Conference of the Americas in Santiago from 4 to 8 December 2000 in preparation for the World Conference against Racism. At the Conference, Governments, national institutions and representatives of civil society discussed the key issues confronting the region. The Conference of the Americas was preceded by an expert seminar, which also took place in Santiago, with the objective of identifying priority issues for the Conference and strategies for action.

D. Asia and the Pacific

35. The OHCHR strategy and programme in the Asian and Pacific region has been in development and implementation since 1982. Through the organization of regional and subregional workshops, in the framework of its programme of technical cooperation in the field of human rights, OHCHR aims to encourage cooperation in the region to promote universal respect for, and observance of, human rights and fundamental freedoms.

36. The annual intergovernmental workshop on regional cooperation for the promotion and protection of human rights in the Asian and Pacific region has become the key forum for discussion of initiatives for regional cooperation. Regional workshops have taken place in Colombo (1982), Manila (1990), Jakarta (1993), Seoul (1994), Kathmandu (1996), Amman (1997), Tehran (1998), New Delhi (1999) and Beijing (2000). At these workshops consensus was reached on a "step-by-step" "building-blocks" approach involving extensive consultation

among Governments of the region, national institutions and NGOs on the possibility of establishing regional arrangements. It has also been agreed that regional arrangements must emerge from and be directed to the needs and priorities set by Governments of the region, with roles, functions, tasks, outcomes and achievements determined by consensus.

37. In 1998, at the Tehran Workshop, participating States adopted a Framework for Regional and Technical Cooperation in the Asian and Pacific region. The Tehran Framework identifies States' commitment to four regional priorities: national plans of action for the promotion and protection of human rights and the strengthening of national capacities; human rights education; national institutions for the promotion and protection of human rights; and strategies for the realization of the right to development and economic, social and cultural rights.

38. The New Delhi workshop in 1999 identified the next steps and activities to facilitate the process under each of the priority areas of the Tehran Framework and carried the process forward by deciding to convene inter-sessional regional and subregional workshops addressing issues under each of those areas. Consequently, the following inter-sessional workshops were convened: a regional workshop on national human rights action plans, Bangkok, July 1999; a subregional workshop on human rights education in north-east Asia, Seoul, December 1999; a subregional workshop on national plans of action for human rights education, Tokyo, January 2000; a regional workshop on the realization of the right to development and economic, social and cultural rights, Sana'a, February 2000. Details of these activities are provided in the 2000 reports of the Secretary-General on regional arrangements for the promotion and protection of human rights in the Asian and Pacific region (E/CN.4/2000/102) and on the national institutions (E/CN.4/2000/103).

39. The conclusions adopted at the Beijing workshop in March 2000 highlighted the implementation of the technical cooperation programme as one of the key components of the promotion of human rights in the region. Member States emphasized the importance of undertaking activities under the Tehran Framework at the national and subregional levels and noted that, within each of the priority areas, attention should be paid to the promotion and protection of the rights of women, children and vulnerable groups. The Beijing conclusions also invited parliaments, national institutions and civil society groups to participate in the development and implementation of the Framework.

40. The next steps and activities identified in Beijing to facilitate the process under each of the priority areas of the Tehran Framework include: finalizing and distributing the Handbook on National Human Rights Action Plans to key beneficiaries; conducting a survey on human rights education; studying non-formal human rights education; organizing a meeting of the Asia-Pacific Forum on the role of national institutions in combating racism; providing training on protection approaches by national institutions; convening a workshop on the impact of globalization; and holding a regional preparatory meeting for the World Conference against Racism. In addition, the Beijing meeting recommended convening several workshops and other activities to bring together key experts and professional groups at the subregional level. These activities are to be implemented over a two-year period.

41. Since the Beijing workshop, the following inter-sessional workshops have been organized: a regional workshop on the role of national human rights institutions in advancing

the international human rights of women, Suva, May 2000; a subregional workshop on enhancing the role of parliaments in promoting and protecting human rights in north-east Asia, Ulan Bator, August 2000; the fifth annual meeting of the Asia-Pacific Forum of National Human Rights Institutions, Rotorua, August 2000; and a regional workshop on National Institutions and economic, social and cultural rights, Manila, November 2000. A subregional workshop on the justiciability of economic, social and cultural rights is expected to take place in February 2001. A detailed account of the implementation of the Beijing conclusions, including these workshops, is provided in the reports of the Secretary-General on regional arrangements for the promotion and protection of human rights in the Asian and Pacific region (E/CN.4/2001/98) and on national institutions (E/CN.4/2001/99).

42. In accordance with Commission on Human Rights resolution 2000/74, the ninth workshop for the Asian and Pacific region is to be organized in Bangkok from 28 February to 2 March 2001. A separate report on the outcome of the workshop will be submitted to the Commission at its present session. It is proposed that inter alia the workshop take stock of ongoing regional and subregional initiatives for a human rights charter.

43. In the context of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, the Islamic Republic of Iran will be hosting the Asian preparatory meeting. The meeting will take place in Tehran from 19 to 21 February 2001.

II. CONCLUSIONS

44. Cooperation between the United Nations and regional institutions in the field of human rights continues to be both substantive and mutually supportive. However, there is great potential to further this cooperation and to take it into new areas. Enhanced dialogue will be sought with regional organizations with a view to developing further cooperative endeavours and joint human rights projects and activities wherever feasible. The High Commissioner for Human Rights has also indicated that she will be placing special emphasis on a number of key human rights areas, including the preparations for the World Conference against Racism and the issue of trafficking in women.

45. The High Commissioner for Human Rights places high priority on strengthening relations and effective cooperation between OHCHR and regional bodies and this is reflected in the recent emphasis placed on OHCHR regional strategies for the promotion and protection of human rights.



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**EFFECTIVE FUNCTIONING OF HUMAN RIGHTS MECHANISMS:
NATIONAL INSTITUTIONS AND REGIONAL ARRANGEMENTS**

**Regional arrangements for the promotion and protection of human
rights in the Asian and Pacific region**

**Report of the Secretary-General submitted in accordance with
Commission resolution 2000/74**

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Introduction

1. In its resolution 2000/74, the Commission on Human Rights requested the Secretary-General to submit to the Commission at its fifty-seventh session a report containing the conclusions of the Ninth Workshop on Regional Cooperation for the Promotion and Protection of Human Rights in the Asian and Pacific Region and information on the progress achieved in implementing the resolution. The present report is submitted in accordance with that request.
2. One of the fundamental objectives of the United Nations is to promote universal respect for, and observance of, human rights and fundamental freedoms. The United Nations has consistently promoted regional cooperation in the Asian and Pacific region for the achievement of this objective, inter alia through the consideration of possible regional arrangements for the promotion and protection of human rights. The General Assembly and the Commission on Human Rights have adopted numerous resolutions in this regard. The World Conference on Human Rights reaffirmed the fundamental role that regional and subregional arrangements could play in promoting and protecting human rights.
3. Pursuant to the relevant resolutions of the General Assembly and the Commission, the Office of the High Commissioner for Human Rights, within the framework of the programme of technical cooperation and advisory services in the field of human rights, organized in 1982 a seminar in Colombo and, more recently, nine workshops for the Asian and Pacific region, in cooperation with the host Governments, in Manila in 1990, Jakarta in 1993, Seoul in 1994, Kathmandu in 1996, Amman in 1997, Tehran in 1998, New Delhi in 1999, Beijing in 2000 and Bangkok in 2001.
4. Through these workshops, a consensus has been reached on the principles and a "step-by-step", "building-blocks" approach involving extensive consultation among Governments of the region, concerning the possible establishment of regional arrangements.
5. The Amman workshop concluded, inter alia, that the sharing of information and the development and strengthening of national capacities for the promotion and protection of human rights are crucial in the step-by-step process of establishing regional human rights arrangements. The workshop also strongly recommended that a regional technical cooperation programme be designed and implemented as a matter of urgent priority.
6. The Tehran workshop carried this process forward and adopted for the first time agreed conclusions. Underlining its commitment to developing and strengthening national capacities for the promotion and protection of human rights through regional cooperation and sharing of experiences, the workshop adopted a framework for regional technical cooperation in the Asian and Pacific region. The Tehran Framework identified States commitments to four regional priorities: national plans of action for the promotion and protection of human rights and the strengthening of national capacities; human rights education; national institutions for the promotion and protection of human rights; and strategies for the realization of the right to development and economic, social and cultural rights.

7. The New Delhi workshop reviewed progress since Tehran in the four priority areas of the Framework for Regional Technical Cooperation in the Asian and Pacific Region and identified the next steps to be taken. The workshop decided to convene inter-sessional workshops addressing issues under each of the four areas of the Tehran Framework and welcomed the decision of the United Nations High Commissioner for Human Rights to allocate funds for the projects foreseen within the Framework.

8. Participants at the Beijing workshop reviewed progress achieved in the four areas identified in the Teheran Framework for Regional Technical Cooperation and identified possible next steps. The conclusions adopted during the Beijing meeting affirmed the importance of the implementation of the technical cooperation programme as one of the key components of the promotion of human rights in the region. Member States emphasized the importance of undertaking activities under the Framework at national and subregional levels with the assistance of the concerned Governments, national institutions and civil society. The Beijing Conclusions also noted that within each area of the Framework, attention should be paid to the promotion and protection of the rights of women, children and vulnerable groups. Parliaments, national institutions and civil society groups were invited to participate in the development and implementation of the Framework.

9. The Beijing Conclusions also endorsed a Plan of Action to be implemented over a two-year period. The activities mentioned include: finalizing and distributing the handbook on national human rights action plans to key beneficiaries; conducting a survey on human rights education; studying non-formal human rights education; organizing a meeting of the Asia-Pacific Forum on the role of national institutions in combating racism; providing training on protection approaches by national institutions; convening a workshop on the impact of globalization; and holding a regional preparatory meeting on the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. In addition, participants at the Beijing meeting recommended convening several workshops and other activities to bring together key experts and professional groups at the subregional level.

I. IMPLEMENTATION OF THE TWO-YEAR PLAN OF ACTION ADOPTED AT THE EIGHTH WORKSHOP ON REGIONAL COOPERATION FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS IN THE ASIAN AND PACIFIC REGION

A. National human rights plans of action and national capacity-building

1. Regional level

10. The draft handbook on national human rights action plans was distributed among participants at the Ninth Workshop on Regional Cooperation for the Promotion and Protection of Human Rights in the Asian and Pacific Region, held in Bangkok from 2 February to 23 March 2000. The handbook will be widely distributed among non-governmental organizations and national institutions in the Asian-Pacific region upon its finalization in 2001.

2. Subregional level

11. The Inter-sessional Subregional North-East Asia Workshop on Parliamentarians and Human Rights was hosted by the State Great Hural (Parliament) of Mongolia from 9 to 11 August 2000. It was jointly organized by the Office of the High Commissioner for Human Rights and the Inter-Parliamentary Union (IPU). It was the first event organized by both organizations within the framework of the memorandum of understanding signed by them in July 1999.
12. Parliamentarians from Mongolia, China, the Democratic People's Republic of Korea, the Republic of Korea and Japan participated in the workshop. Representatives of Governments of the Asian-Pacific region, United Nations agencies and NGOs attended as observers.
13. The workshop was chaired by Mr. S. Tumor, Chairperson of the State Great Hural Human Rights Subcommittee and co-chaired by Dr. Sanaasurengin Oyun, member of the State Great Hural. The Speaker of the State Great Hural, the High Commissioner for Human Rights, the Assistant Secretary-General of the IPU and the United Nations Resident Coordinator a.i. made opening statements. The High Commissioner's Regional Adviser on International Human Rights Standards for the Asian and Pacific Region and the IPU Assistant Secretary-General made concluding remarks. The workshop addressed the following nine themes:
 1. Parliaments and their members as guardians of human rights.
 2. Human rights and legislation.
 3. Parliaments and human rights treaties.
 4. Human rights in the structure of parliament.
 5. Parliaments and national planning for the promotion and protection of human rights.
 6. Parliamentary oversight and human rights.
 7. Roles of individual parliamentarians in the promotion and protection of human rights in parliament and in their constituencies.
 8. The role of parliaments in addressing thematic human rights issues: a case study on the Convention on the Rights of the Child.
 9. United Nations: a partner for parliamentarians in the promotion and protection of human rights.
14. The resource persons, in their presentations, as well as the participants in the debates, affirmed the vital role of parliaments and their members for the promotion and protection of human rights. Particular emphasis was put on the parliamentary oversight function as an

essential tool enabling parliaments and their members, on the one hand, to ensure that national law complied with international human rights norms and, on the other hand, to ensure compliance in practice, on the part of the Government and the administration, with international and human rights norms. Moreover, participants provided insights into their national experience in the field of human rights and also referred to the problems they were facing and the mechanisms set up by their parliaments to address them.

15. The workshop was not intended to adopt any common position or recommendations, but rather to allow for an exchange of experience and views and to enhance participants' knowledge of international human rights norms and principles and of parliamentary tools available to put them into practice.

B. Human rights education

16. Activities relating to human rights education are described in document A/55/360 (see E/CN.4/2001/90).

17. As a result of the mid-term global evaluation of the United Nations Decade for Human Rights Education (1995-2004), a database providing information on organizations, materials and programmes for human rights education was launched at the Web site of the Office of the High Commissioner for Human Rights (<http://www.unhchr.ch/hredu.nsf>).

18. A subregional workshop for judges on the justiciability of economic, social and cultural rights will be held in India in July 2001.

C. National human rights institutions

19. Activities relating to human rights institutions are described in document E/CN.4/2001/99.

1. Regional level

20. The fifth Annual Meeting of the Asia-Pacific Forum of National Human Rights Institutions was held in New Zealand in August 2000.

2. Subregional level

21. Two subregional workshops for national institutions were held during this period: a workshop on the role of national human rights institutions in advancing the rights of women (Fiji, May 2000) and a workshop on national institutions and economic, social and cultural rights (Philippines, November 2000).

D. Realization of the right to development and economic, social and cultural rights

1. Regional level

22. A workshop on the impact of globalization on the full enjoyment of economic, social and cultural rights and the right to development will be held in Malaysia in May 2001.

2. Subregional level

23. From 6 to 9 March 2001, representatives from the Governments of Kiribati, the Marshall Islands, the Federated States of Micronesia and Palau met in Majuro, Marshall Islands, to review the contents of the principal international human rights treaties and to discuss the implications of their ratification. The meeting was organized through a joint programme of OHCHR and the United Nations Development Programme (UNDP) entitled "Human rights strengthening" (HURIST), which aims at mainstreaming human rights in the programmes of UNDP and supporting its human rights work.

24. The representatives were aided in their discussions by international and regional human rights experts, specialized staff from the United Nations and representatives of regional governmental and non-governmental organizations.

25. The participants adopted recommendations which include the need for OHCHR to pay attention to the specific concerns of the Pacific island countries and to provide technical assistance in the areas of institutional strengthening and capacity-building, and legislative review. The participants directed a number of recommendations to their Governments, including for the formulation of national human rights action plans, prioritization of ratification of the international human rights treaties, provision of training on the norms contained in the treaties, translation of the treaties into local languages, as well as giving added importance to human rights on the agenda of regional organizations such as the Pacific Islands Forum and the Pacific Community.

E. National level: related activities

26. At the national level, OHCHR, under its technical cooperation programme, has carried out activities in the region which contribute to the promotion of the four regional priorities identified in the Tehran Framework for Technical Cooperation in the Asian and Pacific Region. In particular, OHCHR undertook activities in Bhutan, Cambodia, China, East Timor, Indonesia, Nepal, Mongolia, the occupied Palestinian territory and the Philippines. Needs assessment missions were also fielded to the Islamic Republic of Iran and the Solomon Islands. In some cases these activities were implemented by OHCHR field presences, as in Cambodia, Indonesia, Mongolia and the occupied Palestinian territory. In East Timor, OHCHR provides substantive support to the human rights programme of the United Nations Transitional Administration in East Timor (UNTAET). In Afghanistan, OHCHR supports the work of the human rights officer within the Office of the Humanitarian Coordinator.

II. NINTH WORKSHOP ON REGIONAL COOPERATION FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS IN THE ASIAN AND PACIFIC REGION

27. The objectives of the workshop were:

(a) To review progress achieved since the Beijing Workshop (March 2000), in the four areas identified in the Tehran Framework for Technical Cooperation. In particular the workshop:

(i) Reviewed the results of the inter-sessional workshops on:

The role of national human rights institutions in advancing the rights of women, Fiji, May 2000;

Human rights for parliamentarians, Mongolia, August 2000;

Annual meeting of the Asia-Pacific Forum on National Human Rights Institutions, New Zealand, August 2000;

National institutions and economic, social and cultural rights, Philippines, November 2000;

(ii) Took stock of national, subregional and regional initiatives within the four areas identified in the Tehran Framework for Technical Cooperation, with the focus on the national level;

(iii) Reviewed the evaluation report as entrusted by OHCHR to Professor Vitit Muntarbhorn on the implementation by OHCHR of activities under the Tehran Framework in the 1998-2000 period;

(b) To have an initial discussion on possible regional or subregional arrangements for the promotion and protection of human rights in the Asian-Pacific region and to take stock of ongoing initiatives in this regard;

(c) To further enhance partnerships for the implementation of the Tehran Framework for Technical Cooperation.

28. In preparation for the workshop, an open-ended team, comprising Geneva-based representatives of interested Member States from the region, held two consultative meetings in Geneva, after which invitations to the workshop were sent to States of the region, national institutions which are members of the Asia-Pacific Forum, and non-governmental organizations active in the region and in consultative status with the Economic and Social Council; United Nations and other intergovernmental organizations and agencies were invited to participate as observers. In addition, United Nations and other international agencies and embassies in Bangkok were invited to attend as observers. Resource persons were identified to make presentations at the workshop.

29. The workshop was attended by representatives from the following 33 Governments: Australia, Bangladesh, Bhutan, Brunei Darussalam, Cambodia, China, Cyprus, Democratic People's Republic of Korea, Fiji, India, Indonesia, Iran (Islamic Republic of), Iraq, Japan, Kuwait, Lao People's Democratic Republic, Malaysia, Marshall Islands, Mongolia, Nepal, New Zealand, Oman, Pakistan, Papua New Guinea, Philippines, Republic of Korea, Saudi Arabia, Singapore, Sri Lanka, Syrian Arab Republic, Thailand, Viet Nam and Yemen. A representative of Palestine also attended. Of the seven national institutions from the region which are members of the Asia-Pacific Forum, four participated in the workshop, together with a representative of the Asia-Pacific Forum. A number of NGOs participated as observers, as did representatives of United Nations agencies.

Proceedings

30. The workshop was opened by Dr. Surakiart Sathirathai, Minister for Foreign Affairs of Thailand, and Mrs. Mary Robinson, United Nations High Commissioner for Human Rights. The workshop was divided into six substantive sessions:

1. Human rights education.
2. National institutions for the promotion and protection of human rights.
3. National plans of action for the promotion and protection of human rights and the strengthening of national human rights capacities.
4. Strategies for the realization of the right to development and economic, social and cultural rights.
5. Review of the recommendations of Professor Vitit Muntarbhorn, as part of his evaluation of OHCHR's implementation of the Tehran Framework (1998-2000).
6. Initial discussion on possible regional or subregional arrangements for the promotion and protection of human rights in the Asia-Pacific Forum.
7. Tehran framework for Technical Cooperation: conclusions.

Conclusions

31. The workshop adopted conclusions, the text of which is annexed to this report. The conclusions affirm the importance of the implementation of technical cooperation in the Asian and Pacific region pursuant to the Framework for Regional Technical Cooperation established at Tehran and recognize the close relationship and mutually supporting nature of the four pillars of the Framework.

32. The conclusions note that the implementation of the Beijing Plan of Action is the responsibility of all States in the region and call on States to take concrete steps, as appropriate, at the national level in connection with the implementation of the Tehran Framework. In this regard, participants at the workshop welcomed the participation of parliaments, the judiciary,

national institutions and civil society, as appropriate, in the development and implementation of the Framework and called on OHCHR to establish, whenever possible, partnerships with these actors in the implementation of the Framework. The importance that regional workshops undertaken within the Framework be accompanied by concrete and sustainable subregional and national activities, as well as by training and awareness programmes for government officials and key professional groups such as the police, prison officials, educators, judges, lawyers, and parliamentarians, was also recognized.

33. While noting that the Tehran Framework is mainly a governmental process, the conclusions acknowledge the importance of participation by national institutions, non-governmental organizations and intergovernmental organizations. In this context, the conclusions acknowledge the initiative to hold a consultation of non-governmental actors one day previous to the official opening of the workshop, as well as the reports of this meeting to the plenary.

34. The conclusions take note of the discussions on possible regional or subregional modalities for cooperation for the promotion and protection of human rights in the Asian-Pacific region as part of an inclusive, step-by-step, practical and building-blocks approach, as well as the evaluation undertaken by Professor Muntarbhorn, at the request of OHCHR, of the implementation of the Tehran Framework.

Annex

**CONCLUSIONS OF THE NINTH WORKSHOP ON REGIONAL
COOPERATION FOR THE PROMOTION AND PROTECTION
OF HUMAN RIGHTS IN THE ASIAN-PACIFIC REGION**

Bangkok, 28 February - 2 March 2001

Representatives of Governments of the Asian-Pacific region,

Participating, together with representatives of the national human rights institutions and non-governmental organizations attending as observers, in the Ninth Workshop on Regional Cooperation for the Promotion and Protection of Human Rights in the Asian-Pacific Region in Bangkok, from 28 February to 2 March 2001,

Recalling the important contributions made and conclusions adopted by previous workshops and, in particular, the Beijing Workshop held in 2000 and the inter-sessional workshops on the four areas identified under the Tehran Framework for Regional Technical Cooperation,

Reaffirming the universality, indivisibility, interdependence and interrelated nature of all human rights - civil, political, economic, social, cultural - and the right to development,

Recognizing that democracy, development and respect for all human rights and fundamental freedoms are interdependent and mutually reinforcing,

Recalling that, according to the 1993 World Conference on Human Rights, the international community must treat all human rights globally in a fair and equal manner, on the same footing and with the same emphasis, and that while the significance of the national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems to promote and protect all human rights and fundamental freedoms,

Reaffirming that the primary focus for the promotion and protection of human rights is at the national level, and that therefore it is the primary responsibility of States to ensure that human rights are promoted and protected,

Committed to enhancing regional and international cooperation to promote universal respect for and observance of human rights and fundamental freedoms,

Mindful of the vastness of and diversities within the Asian-Pacific region,

Reiterating the importance of an inclusive, step-by-step, practical, building-blocks approach towards enhancing regional cooperation for the promotion and protection of human rights,

Affirming the importance of the implementation of technical cooperation in the Asian-Pacific region pursuant to the Framework for Regional Cooperation established at Tehran, with the support of the international community, including through the United Nations Voluntary Fund for Technical Cooperation in the Field of Human Rights, as one of the key components of the promotion of human rights in the Asian-Pacific region,

Having reviewed the progress achieved so far in implementing the Tehran Framework for Regional Cooperation,

Having had an initial discussion on possible subregional and regional modalities for the promotion and protection of human rights in the region,

Hereby,

1. Express appreciation to the Government of Thailand for hosting this workshop and for the statement made by Dr. Surakiat Sathirathai, the Foreign Minister;
2. Welcome the participation of Ms. Mary Robinson, the United Nations High Commissioner for Human Rights, in the Bangkok workshop, as well as her statement;
3. Welcome the participation of H.E. Mr. Shambu Simkhada, Chairman of the fifty-sixth session of the Commission on Human Rights;
4. Express appreciation to the Governments, national institutions, experts, representatives of civil society and the Office of the High Commissioner for Human Rights for the implementation of the proposals made at the Beijing workshop;

With regard to national human rights plans of action and national capacity building:

5. Recognize that national human rights action plans can significantly contribute to improving the realization of all human rights, including the right to development and economic, social and cultural rights;
6. Also recognize that national human rights action plans can advance human rights education and redress racism and racial discrimination;
7. Reaffirm the desirability of developing national human rights plans of action and doing so in a participatory and comprehensive way and encourage States to consider taking steps in this regard;
8. Recognize the value of regional cooperation in sharing useful practices and methodologies in the development of national human rights action plans and capacity building;
9. Take note of those States that are already implementing national human rights plans of action and of the efforts of those States which are in the process of developing national human rights plans of action;

10. Encourage Governments and national institutions to incorporate into national human rights action plans and other relevant national plans the human rights of all vulnerable groups;

11. Take note of the subregional workshop on human rights and parliamentarians held in Mongolia, as well as the involvement of the Inter-Parliamentary Union;

12. Take note of the draft handbook on national human rights plans of action, prepared by the Office of the High Commissioner for Human Rights;

With regard to human rights education:

13. Recognize that human rights education can play a positive role in enhancing respect for human rights and fundamental freedoms, and can contribute to the promotion of human rights and sustainable development and the prevention of human rights violations;

14. Take note of the recommendations of the mid-term review of the Decade for Human Rights Education;

15. Recognize, in this regard, the desirability of including human rights education as a component of national development plans and of other relevant national plans of action;

16. Encourage Governments to promote the development of national strategies for human rights education which are comprehensive, participatory, effective and sustainable;

17. Acknowledge the important role that non-governmental actors, including national human rights institutions, the media and non-governmental organizations, can play in furthering human rights education;

18. Recognize that human rights education for all those involved in the administration of justice may be regarded as one of the priorities in the countries of the region and that priority should also be given to meeting the human rights education needs of local government officials, community leaders, legal and paralegal service providers, rural populations and illiterate people, women and girls and vulnerable groups;

19. Invite States in the region to share their experiences on good practices for human rights education at the Tenth Workshop;

With regard to National Human Rights Institutions:

20. Welcome the establishment and further strengthening of national institutions for the promotion and protection of human rights in many countries of the Asian-Pacific region, in accordance with General Assembly resolution 48/134;

21. Reaffirm that national human rights institutions should be established following an appropriate and inclusive process of consultation and be independent, pluralistic and based on universal human rights standards;

22. Request the Office of the High Commissioner for Human Rights, in consultation with States and in collaboration with national institutions and/or similar specialized institutions, to promote national projects, regional networks and financial and technical assistance that will accelerate this process;

23. Encourage the Office of the High Commissioner for Human Rights to further develop cooperation with the Asia-Pacific Forum of National Human Rights Institutions;

24. Note the implementation of, and substantive reports and conclusions relating to, the three workshops concerning national institutions and the promotion and protection of women's human rights (Fiji, 5-7 May 2000) the second national institutions training course on economic, social and cultural rights (Philippines, 5-11 November 2000) and the fifth Annual Meeting of the Asia-Pacific Forum of National Human Rights Institutions (New Zealand, 6-8 August 2000);

25. Encourage national institutions and similar specialized institutions to bear in mind the gender perspective and to identify a focal point for women's rights and issues for the effective promotion and protection of their human rights;

26. Note with appreciation the financial contributions made by several Governments to support the High Commissioner in her efforts to assist the creation or strengthening of national human rights institutions;

27. Welcome the offer of the Sri Lankan Human Rights Commission to host the sixth Annual Meeting of the Asia-Pacific Forum of National Human Rights Institutions and requests the Office of the High Commissioner for Human Rights to provide adequate support to the Meeting;

With regard to the realization of the right to development and economic, social and cultural rights:

28. Reaffirm that the human person is the central subject of development and that development policy should make the human being the main participant and beneficiary of development;

29. Reaffirm that development is a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom;

30. Affirm their commitment to promoting an approach to development emphasizing policies and actions based on the principles of participation, accountability, non-discrimination and empowerment and guided by the internationally agreed standards of human rights;

31. Reaffirm their commitment to developing and strengthening national capacities, in accordance with national conditions and national needs, for the realization of economic, social and cultural rights and the right to development;

32. Recognize the importance of good governance at the national and international levels to ensure that human rights are protected, freedoms respected and development resources properly and efficiently utilized for implementing the right to development;

33. Affirm that international peace and security are essential elements for the realization of economic, social and cultural rights and the right to development;

34. Recognize that poverty remains a major obstacle in the realization of the right to development and economic, social and cultural rights, and emphasize the need for action at national level and international cooperation to address this issue;

35. Encourage follow-up activities at the national, subregional and regional levels to regional initiatives concerning economic, social and cultural rights and the right to development;

36. Reaffirm that international cooperation is a necessity deriving from the recognized mutual interest of all countries and, therefore, that such cooperation should be strengthened in order to, inter alia, financially and technologically support the efforts of developing countries to solve their social and economic problems and to assist them, wherever possible, in the fulfilment of their obligations with regard to the promotion and protection of all human rights and fundamental freedoms;

37. Encourage Governments and national institutions to pay greater attention to the economic, social and cultural rights of women, including to shelter, food, water, primary education and primary health care;

With regard to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance:

38. Express appreciation to the Government of the Islamic Republic of Iran for hosting the Asian regional preparatory meeting (19-21 February 2001) for the World Conference and take note of the resulting Declaration and Plan of Action;

39. Express profound concern at, and unequivocal condemnation of, all forms of racism and racial discrimination, including acts of racially motivated violence, xenophobia and related intolerance, as well as propaganda activities and organizations which attempt to justify or promote racism, racial discrimination, xenophobia and related intolerance in any form;

40. Welcome the active involvement of national institutions and representatives of civil society as observers at the World Conference;

41. Urge the World Conference to recognize that national plans of action, human rights education and national institutions are fundamental instruments for combating racism and related forms of discrimination and to consider ways in which these instruments can better address such issues, with particular attention paid to all vulnerable groups in society;

Participants at the Bangkok Workshop thus:

42. Recognize the close relationship between and mutually supporting nature of the four pillars of the Framework for Regional Cooperation for the Asian and Pacific Region and call on member States of the region to take concrete steps, as appropriate, at the national level in connection with the implementation of the Tehran Framework;

43. Take note of the discussions on possible regional or subregional modalities for cooperation for the promotion and protection of human rights in the Asian-Pacific region as part of an inclusive, step-by-step, practical and building-blocks approach;

44. Take note of the evaluation undertaken by Professor Vitit Muntarbhorn, at the request of the Office of the High Commissioner for Human Rights, of the implementation of the Tehran Framework;

45. Recognize that regional workshops undertaken within the Framework for Regional Cooperation for the Asian and Pacific Region should be accompanied by concrete and sustainable subregional and national activities, as well as by training and awareness programmes for government officials and key professional groups such as the police, prison officials, educators, judges, lawyers and parliamentarians;

46. Acknowledge, while noting that the Tehran Framework is mainly a governmental process, the importance of participation by national institutions, non-governmental organizations and intergovernmental organizations, the initiative to hold a consultation of non-governmental actors prior to the official opening of the workshop, and their reports to the plenary, and call on the Office of the High Commissioner for Human Rights to establish, whenever possible, partnerships with these actors in the implementation of the Tehran Framework;

47. Note that the implementation of the Beijing Plan of Action adopted at the Eighth Workshop on Regional Cooperation for the Promotion and Protection of Human Rights in the Asian-Pacific Region is the responsibility of all States in the region and welcome the proposal made by the Office of the High Commissioner for Human Rights to continue the implementation of the activities under the Tehran Framework in close cooperation with regional, subregional and national partners and, in this regard, welcome the forthcoming workshops on the justiciability of economic, social and cultural rights and on the impact of globalization on the right to development and economic, social and cultural rights;

48. Welcome the efforts of the Office of the High Commissioner for Human Rights in developing partnerships for implementation of its activities under the Tehran Framework which are enhancing national capacities for the promotion and protection of human rights in the region;

49. Welcome the participation of parliaments, the judiciary, national institutions and civil society, as appropriate, in the development and implementation of the Framework for Regional Cooperation for the Asian and Pacific Region;

50. Invite States to host inter-sessional subregional workshops under the Beijing Plan of Action and welcome the offer made by the Australian Human Rights and Equal Opportunity Commission to host the workshop for national institutions on human rights education and the media;

51. Encourage the dissemination, as appropriate, among relevant government agencies and institutions and other partners at national, subregional and regional levels of the results of the present workshop and the strengthening of joint efforts towards the implementation of its conclusions;

52. Call upon the Office of the High Commissioner for Human Rights to report on progress achieved in the implementation of technical cooperation in the Asian-Pacific region in accordance with the Framework of Cooperation to the next annual workshop.
